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# Texas State Board of Pharmacy

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## Annual Report FY2013

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**Jeanne Waggener, R.Ph.**  
President (9/01/10 - 8/31/13)

**Gay Dodson, R.Ph.**  
Executive Director/Secretary

333 Guadalupe Street, Suite 3-600  
Austin, Texas 78701  
512/305-8000  
[www.tsbp.state.tx.us](http://www.tsbp.state.tx.us)

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## Board Members

Jeanne D. Waggener, R.Ph.  
President  
Waco  
8/10/06 - 8/31/17

Dennis F. Wiesner, R.Ph.  
Vice President  
Austin  
5/9/08 - 8/31/13

Buford T. Abeldt, Sr., R.Ph.  
Treasurer  
Lufkin  
5/9/08 - 8/31/13

W. Benjamin Fry, R.Ph., FIACP, FACA  
San Benito  
4/14/04 - 8/31/15

Alice G. Mendoza, R.Ph.  
Kingsville  
8/10/06 - 8/31/17

L. Suzan Kedron  
Public Member  
Dallas  
5/9/08 - 8/31/13

Joyce Ann Tipton, R.Ph., MBA  
Houston  
1/06/10 - 8/31/15

Charles F. Wetherbee  
Public Member  
Boerne  
1/06/10 - 8/31/15

Phyllis Stine  
Public Member  
Abilene  
8/31/2011 - 8/31/2017

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**Office of the Executive Director****Executive Director**

Gay Dodson, R.Ph.

**Executive Assistant**

Becky Damon

**Receptionist**

Debra Dukes

**Director Information Resources**

Steve Rapp

**Network Specialist**

Todd Hayek

Matthew Hays

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**Administrative Services & Licensing****Division Director**

Cathy Stella, P.H.R.

**Chief Accountant**

Jane Bennett

**Accountant II**

Chantell Solomon

**Accountant III**

Sandra Morton

**Staff Services Officer II**

Robbi Dana

**Purchaser**

David Hardy

**Licensing Administrator**

Carol Willess

**Licensing Specialists**

Estella Casarez

Rachel Glass

Diana Ruedas

Melinda Uballe

Misty Whitcomb

Lisa Ake

Marcie Alvarez

Barbara Racca

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## Professional Services

### Division Director

Allison Benz, R.Ph., M.S.

### Senior Administrative Assistant

Leslie Kacer

Lauren Ivey

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## Enforcement

### Division Director

Carol Fisher, R.Ph., M.P.A.

### Assistant Director of Enforcement

Paul Holder, Pharm.D., R.Ph.

### Chief of Investigations

Robert Ebrom

### Chief of Compliance

Ben Santana, R.Ph.

### Enforcement Program Specialist

Janelle Dooley

### Enforcement Specialists

Lindsay Cruthers

Griselda Lopez, Ph.T.R.

Elaine Naivar, Ph.T.R.

Brandy Plummer

Debra Beal

Christina Bishop

Amy Burt

### Enforcement Officers

Linda Yazdanshenas

Jessica Hirn

Vacant

### Enforcement Technicians

Yvette Muniz

Noreen Trevino

Lori Gonzales

### Senior Staff Investigator

Melissa Weeden

### Investigative Case Manager

Cynthia Fazin

### Enforcement Program Administrator

Robert Rivera, Ph.T.R.

### Enforcement Program Officer

Nelma Sanchez, Ph.T.R.

### Investigators (8)

#### Senior Compliance Officers

Iona Grant, R.Ph.

Sharon Gaskill, R.Ph.

#### Compliance Specialist

Jessica Rodriguez-Reyes, Ph.T.R.

#### Compliance Inspectors

Kara Stapp, Ph.T.R.

David Meryman, Ph.T.R.

Adrienne Bauer, Ph.T.R.

Darrell Montgomery, Ph.T.R.

Chris Schuttler, Ph.T.R.

#### Administrative Assistants

Demetria Williams

Vacant

**STAFF**

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**Legal**

**General Counsel**

Kerstin Arnold, J.D.

**Litigation Counsel**

Kerry Sullivan, J.D.

**Staff Attorney**

Caroline Hotchkiss, J.D.

Tyler Vance, J.D.

Stacy Martyak, J.D.

**Legal Program Specialist**

Sharanya Rao

**Legal Assistant**

**Hearings Coordinator**

Ann Driscoll, Ph.T.R

**Legal Assistants**

Tabatha Lowden

Kelly Clark

Kate Hayden, Ph.T.R.

Don Krupens

Lindsay Powers

Cathy Shannon

Note: The organizational structure reflects the organization as of August 31, 2013.

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# ANNUAL REPORT FY2013

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## Board Mission

The statutory mission of the Texas State Board of Pharmacy is to promote, preserve, and protect the public health, safety, and welfare by fostering the provision of quality pharmaceutical care to the citizens of Texas, through the regulation of: the practice of pharmacy; the operation of pharmacies; and the distribution of prescription drugs in the public interest.

## Board Philosophy

The Texas State Board of Pharmacy will assume a leadership role in regulating the practice of pharmacy and act in accordance with the highest standards of ethics, accountability, efficiency, effectiveness, and open communication. We affirm that regulation of the practice of pharmacy is a public and private trust. We approach our mission with a deep sense of purpose and responsibility. The public and regulated community alike can be assured of a balanced and sensible approach to regulation.

## Board Strategic Goals (FY2013-2017)

- We will establish and implement reasonable standards for pharmacist and pharmacy technician education and practice, and for the operation of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas [Texas Pharmacy Act (Occupations Code, Sec. 551-566, 568-569)].
- We will assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety are protected from the following: incompetent pharmacists and pharmacy technicians; unprofessional conduct, fraud, and misrepresentation by licensees; and diversion of prescription drugs from pharmacies; and to promote positive patient outcomes through the following: reduction of medication errors by encouraging or requiring licensees to implement self-assessment programs and continuous quality improvement programs, including peer-review processes; and enforcement of rules relating to patient counseling and drug regimen review, including prevention of misuse and abuse of prescription drugs. [Texas Pharmacy Act (Occupations Code, Sec. 555-569), and Health and Safety Code, Chapter 483, Dangerous Drugs.]
- We will establish and implement policies governing purchasing and public works contracting that foster meaningful and substantive inclusion of historically underutilized businesses (HUBs).



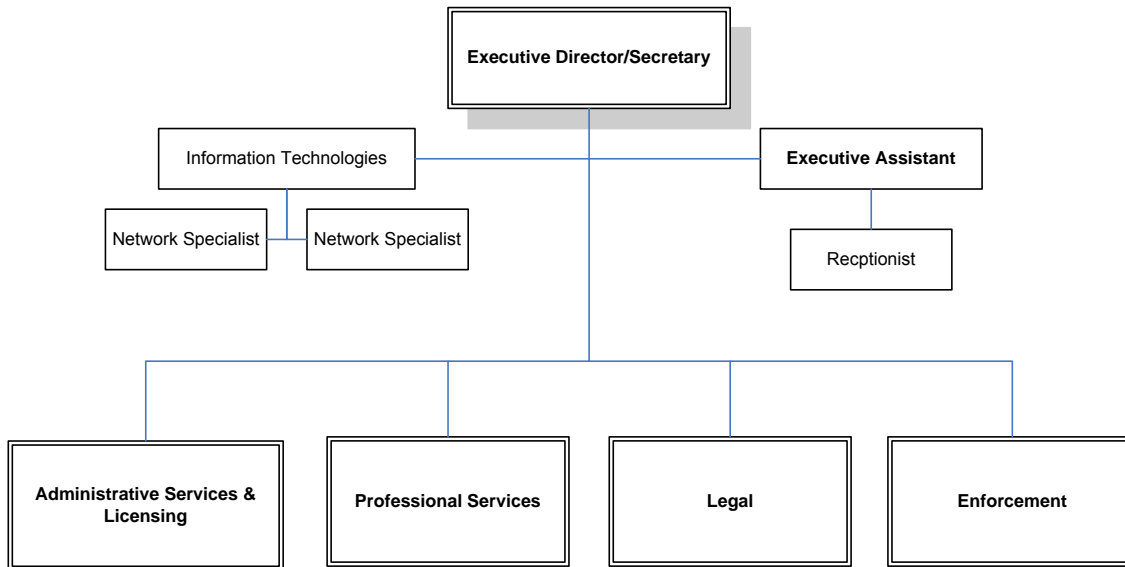
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## **Board Structure**

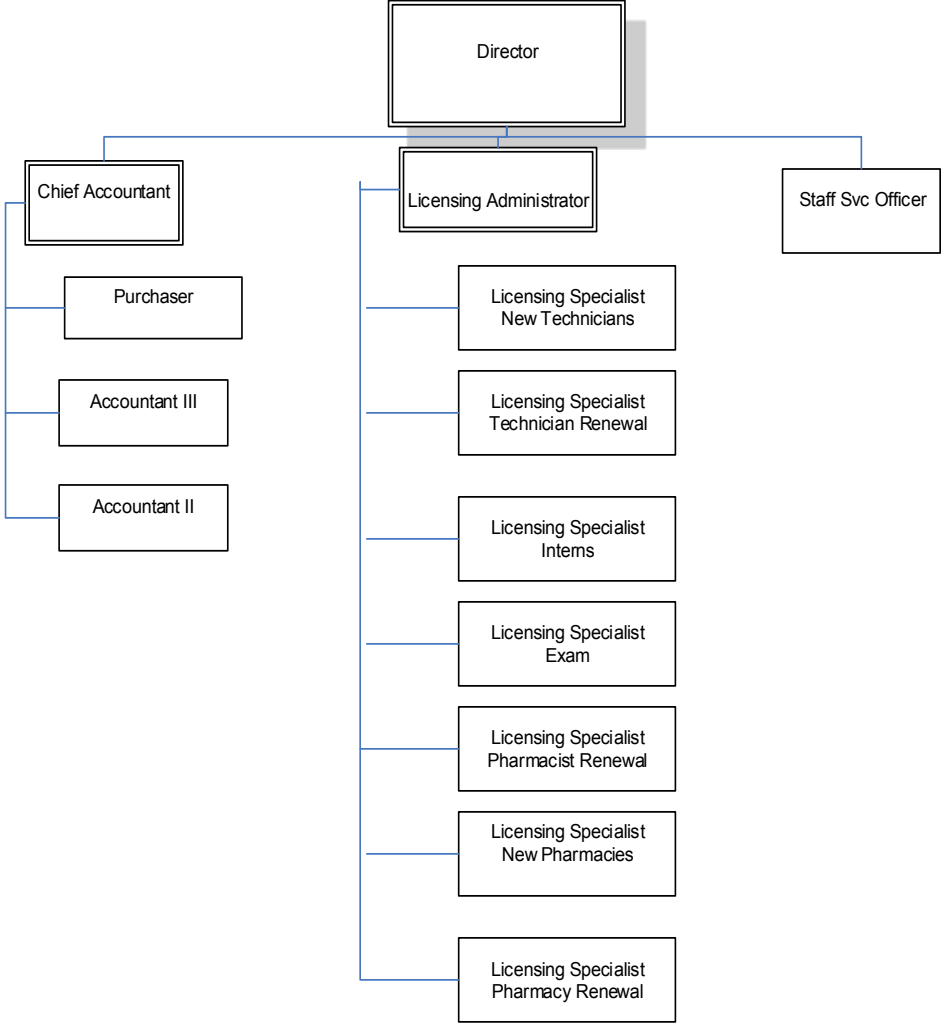
The Board's functional structure at the end of FY2012 was composed of the Office of the Executive Director and four Divisions:

- Division of Administrative Services and Licensing;
- Division of Professional Services;
- Division of Enforcement; and
- Division of Legal Services

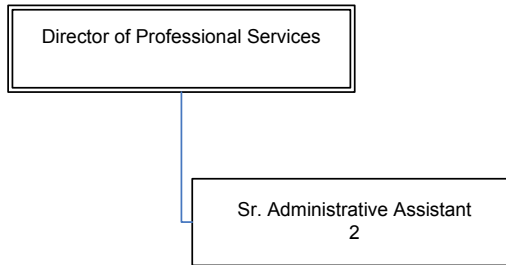
Texas State Board of Pharmacy  
Fiscal Year 2013



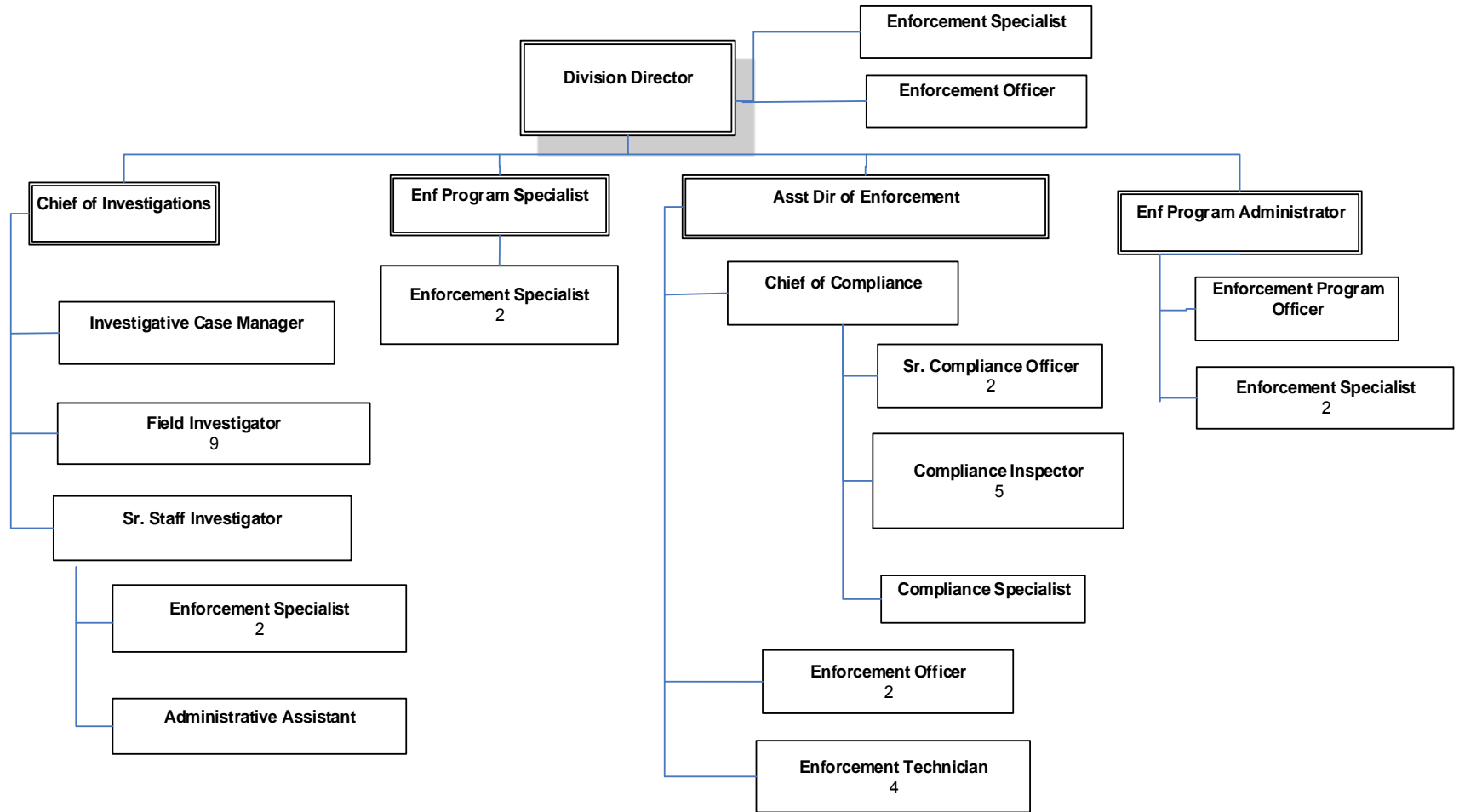
Texas State Board of Pharmacy  
Administrative Services & Licensing Division  
Fiscal Year 2013



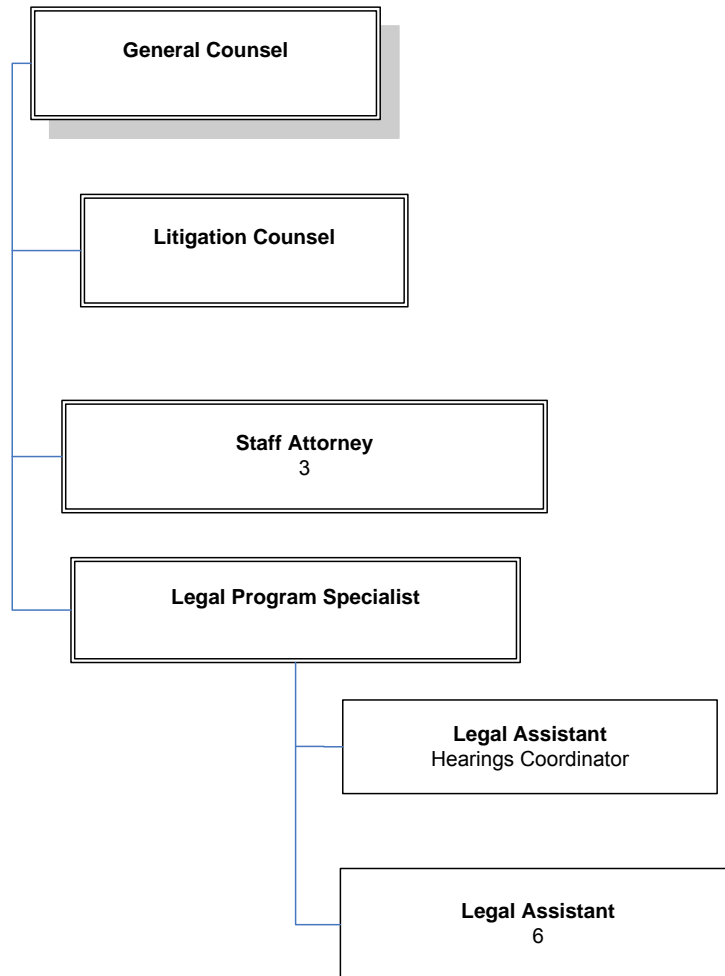
Texas State Board of Pharmacy  
Professional Services Division  
Fiscal Year 2013



Texas State Board of Pharmacy  
Fiscal Year 2013



Texas State Board of Pharmacy  
Legal Division  
Fiscal Year 2013



## **FY2013 FISCAL REPORT**

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2013 (September 1, 2012 - August 31, 2013). A more detailed accounting of the agency's unaudited financial report, which includes all fund types and account groups, a complete statement of revenues and expenditures, and changes in fund balance, can be found in the "FY2013 Annual Financial Report."

As of August 31, 2013, the unexpended balance for FY2013 was approximately \$41,027 or .77% under budget.

TEXAS STATE BOARD OF PHARMACY  
EXPENDITURES - Fiscal Year 2013 - 4th Quarter  
as of August 2013

Code	Description	Budget	Expended	Unexpended Balance/ Lapse	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	54,401.94	48,623.49		5,778.45	10.62%
1010	(b) Professional Fees & Svcs (TPA)	126,874.00	126,874.00		0.00	0.00%
3002	Gas, Other Fuels & Lubricants	42,978.00	42,841.56		136.44	0.32%
3003	Vehicles - Maintenance	13,512.00	12,990.22		521.78	3.86%
3004	Consumable Supplies & Materials	40,879.00	38,579.22		2,299.78	5.63%
3005	Postage	59,500.00	59,308.63		191.37	0.32%
3006	Telephone	40,588.24	39,787.39		800.85	1.97%
3014	Subscriptions	11,329.59	11,059.59		270.00	2.38%
3018	Travel - Board Members (Service)	24,654.20	22,959.61		1,694.59	6.87%
3019/20	Travel - Board Mbr Conference	9,300.00	6,110.50		3,189.50	34.30%
3027	Travel - State Vehicle	727.38	727.38		0.00	0.00%
3028	Travel - Staff (Service)	67,414.70	66,061.73		1,352.97	2.01%
3037	Travel - Conference - State Vehicle	24.00	24.00		0.00	0.00%
3038	Travel - Staff (Conference)	3,012.68	1,331.46		1,681.22	55.80%
3039	Travel - Staff (Conf Out Of State)	3,328.32	3,328.32		0.00	0.00%
3516	Membership Fees & Dues	2,444.00	2,213.00		231.00	9.45%
3517	Administrative Support Service & Other	1,855.00	1,820.00		35.00	1.89%
3518	Administrative Support Service	87,301.54	85,301.54		2,000.00	2.29%
3518(b)	HPC Shared Regulatory Database Migration	262,467.00	262,467.00		0.00	0.00%
3521	Criminal Investigative Expense	900.00	187.21		712.79	79.20%
3534	Freight & Delivery Service	4,800.00	4,671.33		128.67	2.68%
3535	Maint & Repair - Furn & Equip	13,841.80	9,831.10		4,010.70	28.98%
3536	Rental of Furn & Equip	6,786.00	6,785.28		0.72	0.01%
3537	Rental of Space	5,142.00	4,843.49		298.51	5.81%
3538	Bonds & Insurance	6,508.00	6,508.00		0.00	0.00%
3539	Maintenance and Repair-Building	2,555.00	2,553.00		2.00	0.08%
3540	Reproduction & Printing	19,913.00	18,948.23		964.77	4.84%
3570	Registration Fees	7,578.00	7,578.00		0.00	0.00%
3571	Board Member Registration	2,454.00	2,454.00		0.00	0.00%
3581	F & E - Not Capitalized or Inventoried	18,491.67	14,311.02		4,180.65	22.61%
3582	F & E -Under \$1000-Inventory	9,424.96	9,424.96		0.00	0.00%
3588	Books & Recorded Materials	1,200.00	1,130.27		69.73	5.81%
3590	Miscellaneous (HPC Transfer and Fees)	26,513.98	25,813.32		700.66	2.64%
3595	Awards	1,407.00	1,351.09		55.91	3.97%
7001	Exempt Salaries	106,500.00	106,500.00		0.00	0.00%
7002	Classified Salaries - Full Time	3,627,415.33	3,623,168.23		4,247.10	0.12%
7006	Salaries/Wages-Hourly Part-time FTE	5,288.95	7,803.94		1,485.01	15.99%
7017	One-Time Merit	147,000.00	146,974.00		26.00	0.02%
7020	Hazardous Pay	3,570.00	3,570.00		0.00	0.00%
7021	Overtime Pay	7,245.43	7,245.43		0.00	0.00%
7022	Longevity	78,000.00	77,680.00		320.00	0.41%
7023	Lump Sum Termination Payment	34,326.54	34,326.54		0.00	0.00%
7025	Compensatory Per Diem	270.00	180.00		90.00	33.33%
7033	Employees Retirement - Other	4,930.24	4,618.23		312.01	6.33%
7042	Payroll Health Insurance Contribution	37,399.43	34,157.69		3,241.74	8.67%
7219	Texas Online Fee	221,785.00	200,066.00		21,719.00	9.79%
7947	State Office of Risk Management	5,186.17	5,186.17		0.00	0.00%
7984	Unemployment Benefits	164.00	164.00		0.00	0.00%
	Controlled Substance Forfeiture Funds UB)	58,497.22	0.00		58,497.22	100.00%
	Prompt Payment Interest	0.48	0.48		0.00	0.00%
TOTAL ADMIN, LIC & ENF		5,321,685.79	5,200,439.65	0.00	121,246.14	2.28%
		5,321,685.79	5,200,439.65	0.00	121,246.14	2.28%
Rider No. 2 - Controlled Substance Forfeiture Program UB Authority				58,497.22	-58,497.22	0.00%
TexasOnline Authority Appropriation Article VIII - Section 4 - Lapse				21,719.00	-21,719.00	0.00%
Total ADMIN, LIC & ENF Incl Riders		5,321,685.79	5,200,439.65	80,216.22	41,029.92	0.77%



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# Office of the Executive Director

This FY2013 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its *Strategic Plan*. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

The numerous accomplishments achieved by TSBP staff are highlighted at the beginning of each division report. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and disappointments/constraints in FY2013.

## FY2013 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished all (100%) of its 105 objectives, 103 accomplished (98%) and two partially accomplished (2%). In addition, the agency also met or exceeded all (100%) of the 10 key performance measures listed in the Appropriations Act and reported on an annual basis to the Legislative Budget Board (LBB). (See Executive Director Ongoing Objective #1 for additional details).
2. The agency was successful in obtaining an additional \$2,678,850 and 14 new FTEs during the 83rd Legislative Session. The additional funding is targeted for:
  - A. Computer and Software Replacement;
  - B. Vehicle Replacement;
  - C. Testing of Compounded Products;
  - D. 14 new FTE's, including:
    - 4 – Pharmacist Compliance Officers (2 – Field);
    - 3 – Pharmacy Technician Inspectors (Field);
    - 1 – Field Investigator;
    - 1 – Administrative Assistant;
    - 2 – Licensing Specialists;
    - 1 – Education Specialist
    - 1 – Litigation Analyst; and
    - 1 – Accounting Clerk.
  - E. Remodeling at the William P. Hobby, Jr. State Office Building to allow for the addition of the new in-house FTE's;
  - F. Health Professions Council and the Versa Database; and
  - G. Pharmacist Recovery Network.
3. Agency Staff gave 72 presentations to approximately 8,286 individuals during FY2013. Included in this number are 13 on-line presentations to 895 individuals. (See Professional Services Significant Accomplishment #4, Enforcement Ongoing Objective #7, Licensing and Administrative Services Ongoing Objective #17, and Executive Director Ongoing Objective #6 for more details).

**OFFICE OF THE EXECUTIVE DIRECTOR**

4. Assistant Director of Enforcement Paul Holder, R.Ph., Pharm.D., continued to serve as preceptor for students from Texas Colleges of Pharmacy. In FY2013, Dr. Holder served as a preceptor to five students from three Colleges of Pharmacy (see Enforcement Ongoing Objective #8 for further details).
5. As seen in the chart below, in FY2013 the agency continued to have a significant increase (5.9%) in the number of licensees as compared to FY2012.

<b>Fiscal Year</b>	<b>Number Licensed Pharmacists</b>	<b>Number Licensed Pharmacies</b>	<b>Number Registered Pharmacy Technicians</b>	<b>Number Registered Pharmacy Technician Trainees</b>	<b>Number Registered Interns</b>	<b>Total</b>	<b>% Change from Previous Year</b>
<b>FY2009</b>	25,507	6,516	33,927	17,657	1,052	84,659	-
<b>FY2010</b>	26,551	6,762	36,134	13,829	2,451	85,727	1.26%
<b>FY2011</b>	27,329	6,964	37,507	11,839	2,806	86,445	0.84%
<b>FY2012</b>	28,417	7,185	39,973	13,195	2,805	91,575	5.93%
<b>FY2013</b>	29,498	7,350	41,497	15,187	2,938	96,470	5.35%
<b>% Change Since FY2009</b>	<b>15.65%</b>	<b>12.8%</b>	<b>22.31%</b>	<b>-13.99%</b>	<b>179.28%</b>	<b>13.95%</b>	<b>-</b>

6. Approximately 99% of the disciplinary cases against pharmacists and pharmacies and 100% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or Default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and agency expenditures.
7. In order to effectively deal with continuing threat to the public health and safety, the Legal Division continued to evaluate cases, and if such a threat could be established, a panel was convened to hear the cases for potential temporary suspension. Petitions for Temporary Suspension were filed, and Temporary Suspension Hearings were conducted before a Board panel against seven respondents in FY2013. Six respondents were temporarily suspended, and one respondent's petitions were denied.
8. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY 2013.
  - A. Board President Jeanne D. Waggener, R.Ph. continued to serve as on the National Association of Boards of Pharmacy's Executive Committee representing District 6;
  - B. Board Vice-President Alice Mendoza, R.Ph. was appointed to serve as a member of the NABP Committee on Law Enforcement/Legislation.
  - C. Board Treasurer Dennis Wiesner, R.Ph. was appointed to serve as a member of the NABP Committee on Constitution and Bylaws.

**OFFICE OF THE EXECUTIVE DIRECTOR**

- D. Board member Buford T. Abeldt, Sr., R.Ph. was appointed to serve as a member of the NABP Task Force on Virtual Manufacturers and Virtual Wholesale Distributors.
- E. Board member W. Benjamin Fry, R.Ph., FIACP, FACA. was appointed to serve as a member of the NABP Task Force on Drug Return and Reuse Programs.
- F. Board member L. Suzan Kedron, JD was appointed to serve as a member of the NABP Task Force on Drug Return and Reuse Programs.
- G. Board member Phyllis Stine, BS was appointed to serve as an alternate member on the NABP Committee on Constitution and Bylaws.
- H. Board member Joyce Tipton, MBA, R.Ph., FASHP was appointed to serve as a member of the NABP Task Force on Drug Return and Reuse Programs.
- I. Board member Charles F. Wetherbee, JD was appointed to serve as a member of the NABP Committee on Constitution and Bylaws.
- J. Executive Director/Secretary Gay Dodson, R.Ph.:
  - (1) received the 2013 Kappa Epsilon Career Achievement Award; and
  - (2) was appointed to serve as a member of the NABP Committee on Law Enforcement/Legislation

**OFFICE OF THE EXECUTIVE DIRECTOR**

**SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS**

1. Regulatory Database system – The project to replace the TSBP database program (originally written in the 1970’s and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB), entitled, the Versa Regulatory System, became operational in May 2011 with the Versa Online System beginning operation on June 3, 2011. The implementation and ongoing use of the System has left the agency struggling with a number of issues. The increasing amount of manual processes required, non-working interfaces with other agencies, and poor project management/responsiveness from Versa are major problem issues. Most importantly, the Versa Online System’s lack of integration with the back office system creates duplicate data, is not user friendly, and continues to result in major problems in the issuance of licenses and many customer complaints. Although an updated version of the system is available, it has not yet been tested or implemented.
  
2. Although the agency was successful in obtaining additional appropriations for the majority of the requested exceptional items during the 83<sup>rd</sup> Legislative session, the agency has unfunded mandates from the 82<sup>nd</sup> Legislative Session that were not funded during the 83<sup>rd</sup> Session. Included in these unfunded mandates are:
  - Funding for merit raises, hazardous and longevity pay increases, and increases to mileage and hotel per diem. Specifically, the 81<sup>st</sup> Texas Legislature funded merit raises to reward high-performing employees; however, the agency was forced to cut the raises because of a mandated budget cut. These funds were not restored to the agency in the 82<sup>nd</sup> or the 83<sup>rd</sup> Legislative Sessions.
  
  - An 82nd Legislative Session contingency provision that required state agencies to contribute 1.0% of the total base wages and salaries for each employee of an agency, to the Employees Retirement System’s Group Benefits Program. This provision was continued by the 83rd Legislature with an additional 0.05% payment for additional Payroll Contribution for Retirement Contribution. The agency has had to pay for this provision from the agency’s existing appropriations mainly through the lapsing the salaries of vacated positions. If the agency is fully staffed and thus has no lapsed salaries, we will not be able to fund this expense..
  
3. TSBP entered less disciplinary orders in FY2013 than in the previous year, as reflected in the chart below (See Legal Ongoing Objective #1 for more details).

<b>Number of Disciplinary FY2008-2012</b>					
<b>Year</b>	<b>Pharmacists</b>	<b>Pharmacies</b>	<b>Pharmacy Technicians</b>	<b>Total</b>	<b>% Change</b>
FY2009	207	127	403	737	--
FY2010	217	127	464	808	9.6%
FY2011	213	129	364	706	- 12.6%
FY2012	217	169	406	792	12.2%
FY2013	215	148	320	683	13.8%
<b>% Change Since FY2009</b>					<b>-7.3%</b>

FY2013 ANNUAL REPORT

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**GOAL**

To provide policy advice to the Board, implement Board policies, and manage the organization in a manner that will accomplish the stated mission, goals, and objectives of the agency.

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**Objectives (New)**

1. **To continue to direct the implementation of the new licensing, enforcement, and administration database system throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB), entitled, the Versa Regulatory System, became operational in May 2011 with the Versa Online System beginning operation on June 3, 2011. The implementation and ongoing use of the System has left the agency struggling with a number of issues. The increasing amount of manual processes required, non-working interfaces with other agencies and poor project management/responsiveness from Versa, are major problem issues. Most importantly, the Versa Online System's lack of integration with the back office system creates duplicate data, is not user friendly, and continues to result in major problems in the issuance of licenses and many customer complaints. Although an updated online system is available, it has not yet been tested or implemented.

2. **To provide testimony, attend public hearings, and provide any fiscal or technical information, and to review all legislation that has an impact on the practice of pharmacy and agency operations, and monitor the process of this legislation, throughout the 83rd Texas Legislative Session.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. A total of 6,317 pieces of legislation were introduced in the 83<sup>rd</sup> Regular Legislative Session. The Executive Director reviewed or assigned a staff member to review each of these bills. A total of 319 bills that affected the agency or the practice of pharmacy were tracked and monitored as follows.

**OFFICE OF THE EXECUTIVE DIRECTOR**

		83 <sup>rd</sup> Texas Legislature, Regular Session		TSBP Monitored	
		Filed	Passed	Filed	Passed
<b>House</b>					
	Bills	3,950	732	200	39
	Joint Resolutions	130	6	0	0
	Concurrent Resolutions	207	153	0	0
	<b>House Total</b>	<b>4,287</b>	<b>891</b>	<b>200</b>	<b>39</b>
<b>Senate</b>					
	Bills	1,918	705	119	44
	Joint Resolutions	63	4	2	0
	Concurrent Resolutions	49	36	0	0
	<b>Senate Total</b>	<b>2,030</b>	<b>745</b>	<b>119</b>	<b>44</b>
<b>Regular Session Total</b>		<b>6,317</b>	<b>1,636</b>	<b>319</b>	<b>83</b>

- B. The Executive Director met or had telephone conversations with Legislators or others or testified before Legislative committees a total of 20 times as follows (Note: see also meetings related to the FY2014-2015 TSBP Legislative Appropriation Request under New Goal #2 below.

<b>Date</b>	<b>Subject, Legislator, or Committee</b>
9/12/2012	Phone conversation with Shelly in Senator Corona's office regarding theft of controlled substance prescription drugs
10/30/2012	Senate Criminal Justice Hearing on Charge 6, Abuse of Prescription Drugs
1/29/2013	Phone conversation with Cody in Representative Hughes' office regarding status of prescriptions after the death of a physician
1/30/2013	Meeting with Sarah Clemmons in Senator Van de Putte's office regarding Compounding
2/12/2012	Meeting with Senator Schwertner regarding SB 404
2/12/2013	Meeting with Senator Van de Putte regarding SB 500, SB 869, and SB 1100
2/13/2013	Phone conversation with Audry in Representative Schaefer's office regarding colleges of pharmacy
2/19/2013	Phone conversation with staff of the Senate Health and Human Services Committee meeting on SB 190 (Biosimilars)
2/21/2013	Meeting with Sam Carlson in Senator Joan Huffman's office regarding SB 190 (Biosimilars)
3/6/2013	Phone conversation with Lavonda in Senator Uresti's office regarding substitution
3/8/2013	Phone conversation with Steven Kummins of the House Public Health committee regarding SB500 and SB 869
3/7/2013	Senate Health and Human Services Committee Hearing on SB 404 and SB 500
3/13/2013	Phone conversation with Cathy in Representative Simpson's office regarding dispensing errors and adverse effects of drugs
3/20/2013	House Public Health Committee Hearing on SB 2087 (SB 500)
3/26/2013	Senate Health and Human Services Committee Hearing on SB 869 and SB 1013

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<b>Date</b>	<b>Subject, Legislator, or Committee</b>
4/16/2013	Senate Health and Human Services Committee Hearing on SB 1100 and SB 1643
6/12/2013	Phone conversation with Robin in Representative Frullo's office regarding a delay in obtaining a pharmacy license
7/23/23	Phone conversation with Taylor in Senator Schwertner's office regarding a patient's difficulty in obtaining a controlled substance prescription
7/29/2013	Phone conversation with Laura Holland in US Senator Cornyn's office regarding proposed federal compounding legislation
8/8/2013	Phone conversation with Tony Gray in Rep Rene Oliveria's office regarding pharmacy license application

C. During the 83<sup>rd</sup> Legislative Session, the following significant legislation that affected the agency or the practice of pharmacy was passed.

(1) S.B. 227 by Tommy Williams (VETOED BY THE GOVERNOR ON 6/14/2013) – The bill would have allowed physicians to dispense the following "aesthetic pharmaceuticals:"

- Bimatoprost (Latisse);
- Hydroquinone (Lustra, Claripel);and
- Tretinoin (Retin A).

The Veto Proclamation stated:

*"SB 227 would circumvent existing safeguards for the dispensing of certain prescription cosmetic drugs by allowing physicians and optometrist to sell these medications directly. It is the role of the pharmacists – who are trained specifically in drug interactions, side effects and allergies – to dispense the medications. Additionally, the State Board of Pharmacy has the authority to inspect pharmacies to ensure drugs are stored securely and at safe temperatures."*

(2) S.B. 316 by Uresti – Effective Date: 6/14/2013. This bill amends the Texas Pharmacy Act to:

- require the Board to develop a continuing education (CE) program regarding opioid drug abuse and the delivery, dispensing, and provision of tamper-resistant opioid drugs after considering input from interested persons; and
- allow the Board to adopt a rule that will require a license holder to take this CE program as a part of their CE requirement for renewal.

The bill also directs the Senate Health and Human Services committee to conduct an interim study regarding opioid abuse and the provision of tamper-resistant opioids. The study must include an examination of:

- matters relating to prescription opioid abuse; and
  - the use and effectiveness of tamper-resistant opioids.
- (Note: The committee report is due December 1, 2014).

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- (3) S.B. 404 Schwertner – Effective Date: 9/1/2013. This bill amends the Texas Pharmacy Act to:
- prohibit the Board from considering or acting on a complaint if the violation occurred more than 7-years before the date of the complaint;
  - allow the Board to:
    - issue a remedial plan to resolve certain complaint; and
    - assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the cost of administering the plan.

The bill specifies that a remedial plan may not be imposed to resolve a complaint concerning:

- a death;
- a hospitalization;
- the commission of a felony;
- a matter designated by board rule; or
- a matter in which the appropriate resolution may involve a restriction on the manner in which a license holder practices pharmacy.

If a license holder complies with and successfully completes the terms of a remedial plan, the board is required to remove all records of the remedial plan on the 5th anniversary of the date the license holder successfully completes the remedial plan.

- (4) S.B. 406 by Nelson – Effective Date: 11/1/2013. The Texas Medical Practices Act (ACT) is amended to allow advanced practice registered nurses (APRN) and physician assistants (PA) to “prescribe or order a drug or device” and delete the term “carry-out a prescription drug order.” The Act is also amended to allow APRNs and PAs to:
- prescribe Schedule II controlled substances:
    - in a hospital facility-based practice in accordance with policies approved by the facility's medical staff; and
    - as part of the plan of care for the treatment of a person that:
      - has executed a written certification of a terminal illness;
      - has elected to receive hospice care; and
      - is receiving hospice treatment from a qualified hospice provider.
  - increase the combined number of APRNs and PAs with whom a physician may enter into a prescriptive authority agreement may not exceed:
    - seven APRNs and PAs; or
    - the full-time equivalent of 7 APRNs and PAs.



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Note: This limit does not apply to a:

- practice serving medically underserved populations; or
- hospital facility-based practice in a hospital.

The bill also gives the Texas Medical Board (TMB) the authority to inspect and audit any records at a site where a party to a prescriptive authority agreement practices, if TMB is notified of a complaint filed against a APRN or PA by their respective board.

- (5) S.B. 500 by Van de Putte – Effective Date: 9/1/2013. This bill increases the size of the Board of Pharmacy to 11-members by adding 1-pharmacist and 1-pharmacy technician. The composition of the Board will be:
- 7-Pharmacists;
  - 1-Pharmacy Technician; and
  - 3-Public Members.

The pharmacy technician board member must, at the time of appointment:

- be a resident of Texas;
- have been registered as a pharmacy technician for the five years preceding appointment;
- be in good standing to act as a pharmacy technician in Texas; and
- be practicing as a pharmacy technician in Texas.

- (6) S.B. 566 by Eltife – Effective Date: 6/14/2013. This bill authorizes the University of Texas at Tyler to establish a school of pharmacy.

- (7) S.B. 869 by Van de Putte – Effective Date: 9/1/2013. This bill makes numerous “clean-up” amendments to the Texas Pharmacy Act. The amendments:
- add a definition of a pharmacy technician trainee;
  - clarify the provisions of the Act that are applicable to pharmacy technician trainees;
  - clarify that the Board may impose any of the sanctions listed in the Act on a “pharmacist-intern;”
  - allow the Board to receive/spend gifts and grants;
  - prohibit a pharmacist or pharmacy from renewing a license if the licensee holds a license in another state that has been suspended or revoked;
  - delete the requirement for pharmacists to notify a practitioner when they substitute a dosage form;
  - allow the Board to disclose information about an investigation to an “entity that administers a board-approved pharmacy technician certification examination;” and

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- replace the requirement for a pharmacy to post the licenses and renewals of pharmacists working at the pharmacy with a requirement for the pharmacy to:
    - post the license and renewal of the PIC; and
    - maintain proof and make such proof available to the public on request that each pharmacist, pharmacy technician/trainee and pharmacist intern has a current license/registration.
- (8) S.B. 1100 by Van de Putte – Effective Date: 9/1/2013. This bill amends the Texas Pharmacy Act to:
- give the Board the authority to inspect out-of-state sterile compounding pharmacy;
  - require the out-of-state sterile compounding pharmacy to reimburse the Board for travel expenses related to the inspection of Board personnel;
  - require an inspection prior to opening a sterile compounding pharmacy; and
  - specify that a pharmacy that compounds sterile preparations may not renew a pharmacy license unless the pharmacy:
    - has been inspected as provided by Board rule; and
    - if the pharmacy is located in another state, has reimbursed the Board for all expenses, including travel, incurred by the Board in inspecting the pharmacy during the term of the expiring license.

The bill also specifies that a pharmacy that compounds a sterile preparation must notify the Board:

- immediately of any adverse effects reported to the pharmacy or that are known by the pharmacy to be potentially attributable to a sterile preparation compounded by the pharmacy; and
  - not later than 24 hours after the pharmacy issues a recall for a sterile preparation compounded by the pharmacy.
- (9) S.B. 1643 by Williams – Effective Date: 9/1/2013. This bill amends the Texas Controlled Substances Act to:
- add a freestanding emergency medical care facility licensed under Chapter 254 to the definition of a hospital. (Note: this will allow these facilities to obtain a “hospital” registration from DPS);
  - allow pharmacy technician wording under the supervision of a pharmacist to query the Prescription Access in Texas (PAT) Program for the recent Schedule II-V prescription history of a particular patient;
  - allow a person authorized to receive information from the PAT to access it through a health information exchange (HIE), subject to proper security measures to ensure against disclosure to unauthorized persons;

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- allow a person authorized to receive information from PAT to include that information in any form in the medical or pharmacy record of the patient who is the subject of the information. (e.g. a physician may print-out the report and place it in a patient's file);
- increase the time DPS can maintain the information in PAT from 12-months to 36-months; and
- establish an Interagency Prescription Monitoring Work Group to:
  - evaluate the effectiveness of PAT program: and
  - offer recommendations to improve the effectiveness and efficiency of recordkeeping and other functions related to the regulation of dispensing controlled substances by prescription.

The Interagency Prescription Monitoring Work Group:

- is composed of the following individuals or their designee:
  - Director of DPS;
  - Commissioner of State Health Services;
  - Executive Director of the Board of Pharmacy;
  - Executive Director of the Medical Board;
  - Executive Director of the Board of Nursing;
  - and
  - Executive Director of the Physician Assistant Board.
- must:
  - meet at least quarterly;
  - proactively engage stakeholders and solicit and take into account input from the public; and
  - submit to the legislature its recommendations relating to prescription monitoring not later than December 1 of each even-numbered year.

(10) H.B. 1675 by Bonnen – Effective Date: 6/14/2013. This bill requires the Sunset Advisory Commission to:

- conduct a study concerning the self-directed semi-independent (SDSI) status of state agencies; and
- send a report of the findings and recommendations of the study to the Governor, Lt. Governor, and each member of the Legislature by December 31, 2014.

**3. To direct the submission of, provide testimony for, and monitor the progress of the agency's Legislative Appropriation Request and corresponding performance measures for FY2014-2015.**

**Status: ACCOMPLISHED**

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**Comment:** This objective was accomplished through the following activities:

- A. The 83<sup>rd</sup> Legislature passed the FY2014-2015 Appropriations Act, SB 500 and SB 1100 provided TSBP with a budget that includes funding for:
- (1) Computer and Software Replacement;
  - (2) Vehicle Replacement;
  - (3) Full funding for the Testing of Compounded Products;
  - (4) funding for 14 new FTE's, including:
    - 4 – Pharmacist Compliance Officers (2 – Field);
    - 3 – Pharmacy Technician Inspectors (Field);
    - 1 – Field Investigator;
    - 1 – Administrative Assistant;
    - 2 – Licensing Specialists;
    - 1 – Education Specialist
    - 1 – Litigation Analyst; and
    - 1 – Accounting Clerk.
  - (5) Remodeling increase to the William P. Hobby State Office Building to allow for the addition of the new in-house FTE's;
  - (6) Health Professions Council; and
  - (7) Pharmacist Recovery Network.
- B. Agency personnel including the Executive Director participated in the following meetings regarding the TSBP Legislative Appropriation Request.

Date	Subject, Legislator, or Committee
2/11/2013	Senate Finance Committee Hearing
2/13/2013	House Appropriations Committee Article VII Work Group meeting
2/14/2013	House Appropriations Subcommittee Meeting
2/14/2013	Senate Finance Committee Compensation Workgroup Meeting
2/18/2013	House Appropriations Subcommittee Meeting on Article VIII
2/25/2013	House Appropriations Committee Hearing
2/27/2013	Senate Finance Committee Hearing

**Objectives (Ongoing)**

- To manage and monitor the agency's performance and operational efficiency throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** The agency accomplished or partially accomplished 100 % of its 105 objectives (99%) accomplished and one partially accomplished (1%). In addition, the agency also met or exceeded all of the 10 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board (LBB) as indicated below.

Performance Measure		FY13 Projected Performance	FY13 Performance Attained	Projected Target Met?*
<b>A. GOAL: MAINTIAN STANDARDS</b>				
<b>Outcome (Results/Impact)</b>				
	Percent of Licensees with No Recent Violations	95%	95.6%	Exceeded
	Percent of Licensees Who Renew Online	89%	94.9%	Exceeded
<b>A.1.1 STRATEGY: LICENSING</b>				
<b>Output (Volume)</b>				
	Number of New Licenses Issued to Individuals	1,300	1,625	Exceeded
	Number of Licenses Renewed (Individuals)	13,857	15,877	Exceeded
<b>Explanatory</b>				
	Total Number of Business Facilities Licensed	6,910	7,350	Exceeded
<b>B. GOAL: ENFORCE REGULATIONS</b>				
<b>Outcome (Results/Impact)</b>				
	Percent of Complaints Resulting in Disciplinary Action	11.0%	11.32%	Met
<b>B.1.1 STRATEGY: ENFORCEMENT</b>				
<b>Output (Volume)</b>				
	Number of Jurisdictional Complaints Resolved	4,980	6,504	Exceeded
<b>Efficiencies</b>				
	Average Time for Jurisdictional Complaint Resolution	180	187	Met
<b>Explanatory</b>				
	Number of Jurisdictional Complaints Received	5,000	5,891	Exceeded
<b>B.1.2. STRATEGY: PEER ASSISTANT</b>				
<b>Output (Volume)</b>				
	Number of Licensed Individuals Participating in a Peer Assistant Program	160	189	Exceeded

\* Within a 5% variance, TSBP's actual performance was either: equivalent to projected performance ("Met"); better than projected performance ("Exceeded"); or below projected performance ("Not Met").

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2. **To coordinate the development of proposed goals and objectives and budget for FY2014 based on the Strategic Plan and projected budget, for submission to the Board two weeks prior to the August 2013 Board meeting.**

**Status: ACCOMPLISHED**

**Comment:** A proposed budget, including revenue projections, and Goals and Objectives for the agency was presented and approved at the August 6, 2013, Board Business Meeting.

3. **To direct TSBP's "lead agency approach" to help assure coordination of TSBP activities with those of other state and federal agencies involved in the regulation of the practice of pharmacy throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** The agency's Enforcement, Compliance, Investigation, and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #5, Legal Division's Ongoing Objective #8, and Professional Services Division's Ongoing Objective #10 for details of these cooperative efforts.)

4. **To manage the information resource needs (data processing, telecommunication, and Website) of the agency throughout FY2013 by:**

- A. **evaluating and implementing solutions for the evolving computing needs of the agency;**
- B. **providing a stable infrastructure for existing systems;**
- C. **increasing the efficiency and productivity of Board operations; and**
- D. **securing the agencies system against internal and external threats.**

**Status: ACCOMPLISHED**

**Comment:** The following were accomplished for this objective

- A. Evaluating and implementing solutions for the evolving computing needs of the agency. Major accomplishments include:
  - (1) The implementation of a redundant backup system.
  - (2) The installation of an advanced Firewall system that includes enhanced web filtering and VPN solutions
  - (3) Streamlined Board notebook solution eliminating costly software
- B. Providing a stable infrastructure for existing systems – Scheduled, and timely, replacement of hardware/software nearing end of life status was accomplished throughout the year.

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- C. Increasing the efficiency and productivity of Board operations – Training opportunities on various software programs were offered to agency staff. In addition, the agency expanded use of the imaging system.
- D. Securing the agencies system against internal and external threats – Penetration tests and internal security assessments are performed annually to identify gaps and vulnerabilities. These Gaps and vulnerabilities are then remedied by the agency security team. Security training is also provided regularly to agency staff.

**5. To review all federal statutes, regulations, and policies that may affect the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** The Executive Director and agency staff monitored the activities of the federal Food and Drug Administration regarding the illegal importation of prescription drugs, Internet pharmacies, counterfeit prescription drugs, and compounding pharmacies. Notices of these activities were forwarded to the Board Members throughout the year.

**6. As the Executive Director of the Board, throughout FY2013, to:**

- A. represent the Board and its policies and programs to local, state, and national pharmacy, health-related, and consumer organizations;
- B. act as the Board’s liaison to the pharmacy professional associations;
- C. continue to take a proactive role in the operation of the Health Professions Council; and
- D. continue to support and participate in the Texas Pharmacy Congress.

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. The Executive Director:
  - (1) Gave 17 presentations to approximately 2,170 persons, as indicated below.

<b>Date</b>	<b>Name of Association/Location of Meeting</b>	<b>Attendance (Approximate)</b>
9/8/2012	DEA Pharmacists Diversion Conference – Houston	250
9/9/12	DEA Pharmacists Diversion Conference – Houston	200
9/15/2012	UT College of Pharmacy Professional Development Seminar	450
9/28/2012	HEB Pharmacy Conference – San Antonio	300

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<b>Date</b>	<b>Name of Association/Location of Meeting</b>	<b>Attendance (Approximate)</b>
10/18/2012	Texas Federation of Drug Stores Annual Meeting – Bastrop	30
10/20/2012	Central Texas Society of Health-System Pharmacists – San Antonio	40
10/27/2012	Austin Area Society of Health-System Pharmacists – Austin	40
10/28/2012	Texas Pain Society – Bastrop	25
11/3/2012	Houston Independent Pharmacists Association – Houston	25
11/29/2012	Presentation to University of Texas NCPA Chapter – Austin	40
2/7/2013	Dallas Area Pharmacists Association – Dallas	100
2/18/2013	University of Texas College of Pharmacy Law Class	80
3/2/2013	El Paso Society of Health-System Pharmacists' Frontiers in Pharmacy Seminar – El Paso	80
4/13/2013	TPA Spring Leadership Symposium	50
4/14/2013	WTPA Annual Meeting – El Paso	90
7/26/2013	Texas Pharmacy Association's Annual Meeting – Austin	350
7/26/2013	TPA Student Pharmacist's Round Table	20
	<b>Total</b>	<b>2,170</b>

(2) Participated in 19 interviews with the press as indicated below.

<b>Date</b>	<b>Interview With</b>
10/15/2012	Telephone interview with Sharsham Diem of Dow Jones regarding compounding pharmacy
10/17/2012	Telephone interview with Walt Bogdanich of the New York Times regarding pharmacy compounding
10/18/2012	Telephone interview with Courtney Coleman of Reporting Texas.com regarding pharmacy compounding
10/30/2012	Telephone interview with Todd Akerman of the Houston Chronicle regarding the Texas license for New England Compounding Center
10/31/2012	Telephone interview with Timothy Martin of the Wall Street Journal regarding the regulation of pharmacy compounding
10/31/2012	Telephone interview with Eric Decksheimer of the Austin American Statesman regarding pharmacy compounding
11/1/2012	Telephone interview with Cindy Horsewell of the Houston Chronicle regarding pill mill pharmacies in Houston
11/23/2012	Telephone interview with Valarie Riddell of the Polk County Enterprise regarding Lopez Pharmacy
12/3/2012	Telephone interview with Kimberly Kennedy of the Washington Post regarding pharmacy compounding



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<b>Date</b>	<b>Interview With</b>
12/5/2012	Telephone interview with Robbie Owens of CBS –11 Dallas regarding pharmacist immunizations
1/14/2013	Telephone interview with Todd Unger of Channel 8 – Dallas regarding pharmacist immunizations
3/4/2013	Telephone interview with Sarah Lumbert of National Geographic regarding possible interview regarding prescription drug abuse
3/22/2013	Telephone interview Melissa Correa of KRGV TV (ABC) Rio Grande Valley regarding prescription drug being sold at flea markets
3/12/2013	Telephone interview with Kate Traynot of the American Journal of Health-System Pharmacists regarding background checks on pharmacy technicians
3/28/3013	Telephone interview with Chelsea of the Boston Globe regarding Pallimed Solutions Pharmacy and their license status in Texas
4/18/2013	On Camera interview with Leslie Rhode of KXAN (CBS) Austin regarding pharmacy compounding
6/14/2013	Telephone interview with Tiffany Walden of the Abilene Reporter News regarding synthetic drugs of abuse
6/18/2013	Telephone interview with Heather Lindsay of the Hearing Journal regarding OTC hearing aids
6/19/2013	Telephone interview with Ian Floyd of the Texas Tribune regarding pain management clinics

(B) Attended 29 meetings, conferences, or phone calls representing the agency as indicated below.

<b>Date</b>	<b>Name of Association/Location of Meeting</b>
9/5/2012	Meeting with pharmacy management of Seton Hospital to discuss several issues – Austin
9/11/2012	Conference Call with representatives of MedVantax regarding internet pharmacies – Austin
10/3/2012	Meeting with representatives of Texas Department of State Health Services, Food and Drug Division to discuss pharmacy issues – Austin
10/4/2012	Meeting with representative of the Texas Society of Health-System Pharmacists to discuss pharmacy issues – Austin
10/16/2012	8 <sup>th</sup> Biennial Legislative Communication Conference – Austin
10/17/2012	Meeting with representatives of the State Auditor’s Office regarding audit – Austin
10/21-24/2012	NABP District VI, VII, and VIII Meeting – Little Rock
11/7/2012	Conference Call with representative of MedVantax – Austin
11/29/2012	NABP Compounding Webinar – Austin
2/20/2013	Task Force on Compounding meeting – Austin
1/2/2013	Telephone call with NABP regarding TSBP Compounding Rules – Austin

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<b>Date</b>	<b>Name of Association/Location of Meeting</b>
1/3/2013	Meeting with Joe DaSilva and TPA staff regarding issues – Austin
1/7/2013	Meeting with Texas Department of State Health Services commissioner regarding pharmacy compounding – Austin
1/15/2013	Task Force on Pharmacy Compounding Meeting – Austin
1/22-23/2013	NABP Committee on Law Enforcement and Legislation – Chicago
2/22/2013	Phone call from Laura Long of the Arizona Office of the Auditor General
3/15/2013	Meeting with Eddie Solis of Hillco regarding electronic prescriptions – Austin
3/22/2013	Conference Call with FDA regarding Federal Compounding Legislation – Austin
4/9/2013	Pharmacy Compounding Task Force Meeting – Austin
4/9/2013	Senate Health and Human Services Committee Hearing
4/10/2013	House Public Health Committee Hearing
4/19/2013	Meeting with David C. Nelson and Rafi Baddour regarding drug disposal proposal
6/3/2013	Meeting with QVL Pharmacies -- Austin
6/4/2013	Meeting with Joe DaSilva and Kim Roberson of TPA – Austin
6/4/2013	Conference call with FDA regarding compounding pharmacy – Austin
5/12/2013	Meeting with Matthew Lyon regarding OTC Hearing Aids – Austin
7/15/2013	Meeting with Krista Crocket, Texas Pain Society – Austin
7/17-20/2013	Kappa Epsilon National Meeting – Richmond, VA
7/25-27/2013	Texas Pharmacy Association's Annual Meeting – Frisco

- C. The Executive Director continued to serve as Chair of the Health Professions Council and attended eight meetings of the Council or Council Committees and meetings of the Regulatory Database Committees as follows:

<b>Date</b>	<b>Activity</b>
10/9/2012	Regulatory Database Steering Committee Meeting
10/11/2012	Legal Committee Meeting
11/15/2012	Legal Committee Meeting
11/16/2012	HPC Meeting regarding SOAH
12/10/2012	Health Professions Council Meeting
1/28/2013	Regulatory Database Executive Committee Meeting
3/18/2013	Health Professions Council Meeting
6/10/2013	Health Professions Council Meeting

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D. The Executive Director attended three meetings of the Texas Pharmacy Congress as follows.

Date	Activity
11/13/2012	Texas Pharmacy Practice Coalition Meeting – Austin
11/13-14/2012	Texas Pharmacy Congress Meeting – Austin
2/18/2013	Texas Pharmacy Congress Meeting – Austin

**7. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** The agenda for each meeting of the Board included discussion of possible suggestions for changes to the Pharmacy Act. In addition, each Division has made recommendations for improvements (see Administrative Services Ongoing Objective #14, Professional Services Ongoing Objective #13, Enforcement Ongoing Objective #13, and Legal Ongoing Objective #13).

**8. To maintain a staff development program by:**

- A. encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training;**
- B. conducting periodic reviews and annual evaluations of Division Directors and Executive Office staff; and**
- C. monitoring evaluations of employees in all Board Divisions throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** In FY2013, Division staff attended General Staff Meetings held December 6, 2012, February 26, 2013, June 25, 2013, and August 27, 2013. In conjunction with quarterly General Staff Meetings, Division staff participated in staff training, as listed below:

- EEO Training for all staff;
- Alliance Work Partners “Staying Motivated on the Job”; and
- Department of Family Protective Services “Barriers to Effective Listening.”

Evaluations of the Division Directors and Executive Assistant were completed in August 2013.

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9. **To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2013.**

**Status: ACCOMPLISHED**

**Comment:** A self and staff evaluation of the Executive Director were presented to the Board at its August 2013 meeting. The Board conducted the performance evaluation at this meeting.

10. **To prepare a report on the accomplishments of the Office of the Executive Director and direct the preparation and submission of the agency's FY2012 Annual Report to be presented to the Board at the May 2013 Board meeting.**

**Status: ACCOMPLISHED**

**Comment:** The final draft of the TSBP Annual Report for FY2012 was not completed by the May 2013 meeting but was presented to and approved by the Board at the August 2013 Board meeting.

# Administrative Services and Licensing Division

## FY2013 SIGNIFICANT ACCOMPLISHMENTS

1. The Division accomplished all (100%) of its 27 Goals and Objectives and within a 5% variance all (100%) of the Key and Non-Key measures required to be reported on an annual basis to the Legislative Budget Board.
2. The agency was successful in obtaining additional appropriations for the majority of the requested exceptional items during the 83<sup>rd</sup> Legislative session. This included 14 new FTE's as follows:
  - 2 Staff Pharmacists
  - 5 new Inspectors (2 pharmacists; 3 technicians)
  - 1 new field Investigator
  - 1 Administrative Assistant
  - 2 License Specialists
  - 1 Education Specialist
  - 1 Litigation Analyst
  - 1 Accountant
3. The agency was partially successful in its efforts to obtain much needed space for its agency employees. The Texas Legislature approved funding to remodel unused space within the William P. Hobby, Jr. State Office Building. The new space is not contiguous with the agency's existing space and in fact, is located in another tower of the building, presenting workflow and efficiency challenges. Despite this major drawback, the agency initiated discussions with the architects of the Texas Facilities Commission and by year-end, produced a workable building reconstruction plan to begin in FY2014 that will satisfy the agency's immediate housing needs.
4. The agency underwent two audits and was certified as compliant in both audits. The audits included a review of personnel policies and procedures systems by the Texas Workforce Commission Civil Rights Division and Risk Management Program Review conducted by the State Office of Risk Management.
5. The Division met or exceeded 100% of the Key Performance Measures submitted to the Legislative Budget Board.

**ADMINISTRATIVE SERVICES AND LICENSING DIVISION**

**FY2013 SIGNIFICANT DISAPPOINTMENTS**

1. Although the agency was successful in obtaining additional appropriations for the majority of the requested exceptional items during the 83rd Legislative session, the agency has unfunded mandates from the 82<sup>nd</sup> Legislative Session that were not funded during the 83<sup>rd</sup> Session. Included in these unfunded mandates are:
  - Funding for merit raises, hazardous and longevity pay increase and increases to mileage and hotel per diem. Specifically, the 81<sup>st</sup> Texas Legislature funded merit raises to reward high-performing employees; however, the agency was forced to cut the raises because of a mandated budget cut. These funds were not restored to the agency in the 82<sup>nd</sup> or the 83<sup>rd</sup> Legislative Sessions.
  - An 82<sup>nd</sup> Legislative Session contingency provision that required state agencies to contribute 1.0% of the total base wages and salaries for each employee of an agency, to the Employees Retirement System’s Group Benefits Program. This provision was continued by the 83<sup>rd</sup> Legislature with an additional 0.05% payment for additional Payroll Contribution for Retirement Contribution. The agency has had to pay for this provision from the agency’s existing appropriations mainly through the lapsing the salaries of vacated positions. If the agency is fully staffed and thus has no lapsed salaries, we will not be able to fund this expense.
  
2. The agency was partially successful in its efforts to obtain much needed space for its agency employees. The Texas Legislature approved funding to remodel unused space within the William P. Hobby, Jr. State Office Building. The new space is not contiguous with the agency’s existing space and in fact, is located in another tower of the building, presenting workflow and efficiency issues.
  
3. All of the Licensing Services Programs continue to grow resulting in the following increases in workload.

<b>Licensing Workload Increases</b>							
	<b>FY2008</b>	<b>FY2009</b>	<b>FY2010</b>	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>Percent Increase since FY08</b>
Pharmacists	24,586	25,507	26,551	27,329	28,417	29,498	19.97%
Pharmacies	6,424	6,516	6,762	6,964	7,185	7,350	14.41%
Pharmacy Technicians	32,914	33,927	36,134	37,507	39,973	41,497	26.07%
Pharmacy Technician Trainees	18,093	17,657	13,829	11,839	13,195	15,187	<19.13%>
Interns	925	1,052	2,451	2,806	2,805	2,938	217%
<b>Total Licensees</b>	<b>82,942</b>	<b>84,659</b>	<b>85,727</b>	<b>86,445</b>	<b>91,575</b>	<b>96,470</b>	<b>16.31%</b>

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

4. Regulatory Database system – The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB), entitled, the Versa Regulatory System, became operational in May 2011 with the Versa Online System beginning operation on June 3, 2011. The implementation and ongoing use of the System has left the agency struggling with a number of issues. The increasing amount of manual processes required, non-working interfaces with other agencies and poor project management/responsiveness from Versa, are major problem issues. Most importantly, the Versa Online System's lack of integration with the back office system creates duplicate data, is not user friendly, and continues to result in major problems in the issuance of licenses and many customer complaints. Although an updated online system is available, it has not yet been tested or implemented.

# ADMINISTRATIVE SERVICES AND LICENSING DIVISION

## FY2013 ANNUAL REPORT

### GOAL

To administer agency operations including personnel, finance, purchasing, risk management, and information technologies. To conduct a pharmacy and pharmacist licensure system, intern registration program, pharmacy technician registration system, and the ongoing renewal of licenses and registrations.

### Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2013:

- 1. Preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, throughout the 83rd Texas Legislative Session.**

**Status:** Accomplished

**Comment:** This objective was accomplished through the following activities:

83rd Texas Legislature - The Division Director reviewed and analyzed 121 pieces of legislation that had a potential impact on agency operations. Division Director and Chief Accountant also maintained constant contact with the Legislative Budget Board (LBB) and Governor's Office of Budget, Planning and Policy (GBO) to review and discuss the agency *Legislative Appropriations Request* for FY2014-2015. Forty-four fiscal notes were researched and submitted to the LBB.

The following public hearings were attended by the Division Director in order to provide administrative and technical support to the Executive Director:

Date	Subject, Legislator, or Committee
2/11/2013	Senate Finance Committee Hearing on the TSBP FY2014-2015 Legislative Appropriation Request
2/13/2013	Senate Finance Committee Workgroup on the TSBP FY2014-2015 Legislative Appropriation Request
2/14/2013	House Appropriations Regulatory Subcommittee Hearing on the TSBP FY2014-2015 Legislative Appropriation Request
2/25/2013	House Appropriations Regulatory Subcommittee Meeting for Mark-up on the TSBP FY2014-2014 Legislative Appropriation Request
5/26/2013	Conference Committee Recommendations passed.



## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

### 2. Monitoring the progress of the agency's Legislative Appropriations Request and corresponding performance measures for FY2014-2015.

**Status:** Accomplished

**Comment:** A summary of legislative action affecting the agency's FY2014-2015 budget included additional appropriations to fund the following increases:

- A. Computer and Software Replacement
- B. Vehicle Replacement
- C. Testing of Compounded Products
- D. Fourteen new FTE's, including operating costs for the following:
  - 2 Staff Pharmacist
  - 5 New Inspectors (2 pharmacists; 3 technicians)
  - 1 New Field Investigator
  - 1 Administrative Assistant
  - 2 License Specialists
  - 1 Education Specialist
  - 1 Litigation Analyst
  - 1 Accountant
- E. Remodeling increase to the William P. Hobby Building to allow for the addition of the new in-house FTE's.
- F. Health Professions Council
- G. Pharmacist Recovery Network

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### Objectives (Ongoing) – Administrative Services

#### 1. To prepare a proposed budget for FY2014 for submission to the Board two weeks prior to the 2013 Annual Policy Meeting.

**Status:** Accomplished

**Comment:** A proposed budget, including revenue projections and fee recommendations, was presented and approved by the Board at the August 2013 Board Business Meeting. See Comments under Ongoing Objective #3 for additional information.

#### 2. To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2013.

**Status:** Accomplished

**Comment:** The agency submitted the Annual Financial Report (AFR) and the Annual Report of Non-Financial Data, to the Office of the Comptroller for the year ending August 31, 2013, by the due dates. The AFR was reviewed by the Comptroller's Office as part of the statewide annual financial report and found to be in compliance.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- 3. To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2013.**

**Status:** Accomplished

**Comment:** A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board meeting.

A fee change was recommended and approved by the Board in August 2013 with an effective date of January 1, 2014. This resulted in an approximate 30% increase in fees for all applicants and licensees. The fee increase was necessary in order to comply with the Contingent Revenue Rider that requires sufficient revenue be generated to cover the additional appropriations that were approved by the 83<sup>rd</sup> Legislature.

- 4. To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Texas Procurement and Support Services rules and procedures throughout FY2013.**

**Status:** Accomplished

**Comment:** No audits of the agency's purchasing activities by oversight government entities were conducted in this fiscal year. The Chief Accountant continued to review all specifications, product tabulations, and purchase requisitions for compliance with agency policies and procedures and CPA rules. This oversight ensured that the appropriate procurement method was identified, the agency received the best value for the product or service purchased, and that funds were always available.

- 5. To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities throughout FY2013.**

**Status:** Accomplished

**Comment:** The agency was partially successful in its efforts to obtain much needed space for its agency employees. In 1995, in-house employees numbered 35 FTE's and these staff occupied 8,415 square feet in the William P. Hobby State Office Building. In FY2012 the agency housed 66 employees and interns, and occupied 9,014 square feet. With the passage of the legislative appropriations act, the number of employees will increase to 92 FTE's in FY2014, with 78 of those in-house. The Texas Legislature approved funding to remodel unused space within the William P. Hobby State Office Building. The new space is not contiguous with the agency's existing space and in fact, is located in another tower of the building, presenting workflow and efficiency issues. Despite this major drawback, the agency initiated discussions with the architects of the Texas Facilities Commission and by year end, produced a workable building reconstruction plan to begin in FY2014, that will satisfy the agency's immediate housing needs.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

6. To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2013.

**Status:** Accomplished

**Comment:** This objective was accomplished as follows:

- A. The agency underwent a review of personnel policies and procedures systems by the Texas Workforce Commission Civil Rights Division and was certified as compliant.
- B. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training as required by state law.
- C. Division directors continued to review and revise employee position descriptions.
- D. Division directors continued implementation of "team leader" quarterly meetings.
- E. The agency reviewed its Employee Handbook of Personnel Policies and Procedures. Two employee complaints were filed and resolved, and there were no employment discrimination or other charges initiated with the Texas Commission on Human Rights.
- F. The agency received 615 applications for employment during this fiscal year, which resulted in 14 new hires and four promotions. (Note: providing EEO information by applicants is strictly voluntary. Forty-nine applicants did not provide the information thus it is not included in the chart below).
- G. The agency had ten employees that terminated employment with the agency in FY2013, resulting in a turnover rate of 12.82%. This compares to the overall statewide turnover rate of the state of 17.6%.

The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2013.

**ADMINISTRATIVE SERVICES AND LICENSING DIVISION**

Texas State Board of Pharmacy  
EEO Data as of August 31, 2013

**Agency EEO Data**

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	5	0	0	0	0	0	0	0	5	5
Professional	7	9	0	2	2	0	0	1	9	12	21
Para-Prof	11	18	0	0	0	15	0	0	11	33	44
Admin Support	0	4	0	2	0	1	0	0	0	7	7
<b>TOTALS</b>	<b>18</b>	<b>36</b>	<b>0</b>	<b>4</b>	<b>2</b>	<b>16</b>	<b>0</b>	<b>1</b>	<b>20</b>	<b>57</b>	<b>77</b>

**New Hires**

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	2	2	0	0	0	0	0	0	2	2	4
Para-Prof	3	3	0	0	0	1	0	0	3	4	7
Admin Support	0	3	0	0	0	0	0	0	0	3	3
<b>TOTALS</b>	<b>5</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>9</b>	<b>14</b>

**Promotions**

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	0	0	0	0	0	0	0	0	0	0
Para-Prof	0	3	0	0	0	1	0	0	0	4	4
Admin Support	0	0	0	0	0	0	0	0	0	0	0
<b>TOTALS</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>

**Terminations**

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	2	1	0	0	0	0	0	0	2	1	3
Para-Prof	1	3	0	0	1	1	0	0	2	4	6
Admin Support	0	1	0	0	0	0	0	0	0	1	1
<b>TOTALS</b>	<b>3</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>6</b>	<b>10</b>

**Applications**

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	24	14	2	2	3	5	1	6	30	27	57
Para-Prof	26	66	6	31	22	37	3	11	57	145	202
Admin Support	18	116	10	48	20	71	10	14	58	249	307
<b>TOTALS</b>	<b>68</b>	<b>196</b>	<b>18</b>	<b>81</b>	<b>45</b>	<b>113</b>	<b>14</b>	<b>31</b>	<b>145</b>	<b>421</b>	<b>566</b>

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

7. **To serve as the Agency Records Retention Manager to the Texas State Library, in maintaining a Records Retention Program for the economical and efficient management of agency records throughout FY2013.**

**Status:** **Accomplished**

**Comment:** The agency continues to save valuable square footage by imaging files. The pharmacist, pharmacy technician and closed technician complaint imaging project continued with 96,072 images scanned into the imaging system. Agency staff destroyed 566.86 cubic feet of records in accordance with the TSBP records retention schedule, and 35 cubic feet of records were sent to the State Library for storage. The Texas Legislature funded additional appropriations to begin the project of imaging all original, paper pharmacy (facility) historical and current files. This project will begin in FY2014. Finally, the agency continued its efforts towards applying for recertification of its Records Retention Plan by the Texas State Library and Archives Commission.

8. **To serve as the Agency Risk Manager by annually assessing areas of agency risk exposures and recommending procedures to control these exposures throughout FY2013.**

**Status:** **Accomplished**

**Comment:** A Risk Management Program Review (RMPR) of the agency was conducted on September 12, 2013, by the State Office of Risk Management. The visit was conducted under the authority of Texas Labor Code, Title V., Subtitle A., Chapter 412, and is designed to assist state agencies to develop and implement comprehensive risk management programs that meet Risk Management for Texas State Agencies (RMTSA) guidelines.

Noteworthy observations made during this review include the following:

*“The safety culture at the Texas State Board of Pharmacy is well supported. This is evidenced by low workers’ compensation numbers. TSBP has had two claims in the agency’s existence totaling \$3,954.45.”*

*“Security at the agency is evident; all visitors must sign-in and register in main lobby. Security cards are issued and used by all agency personnel.”*

*“The agency has a comprehensive and well-written personnel handbook and Strategic Plan.”*

In addition, the Texas Internal Audit Act requires all agencies to conduct a formal risk assessment and submit an annual Risk Assessment Report to the Office of the State Auditor (SAO). The Agency assessed the major programs of the agency (i.e., fiscal, technology, licensing, public information, rule making, peer assistance, enforcement) and submitted the Risk Assessment Report by the due date to the SAO.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- 9. To provide verbal and written information to Board staff and customers throughout FY2013 including the preparation of the LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary.**

**Status:**       **Accomplished**

**Comment:**    This objective was accomplished by providing reports as follows:

Report Title	Recipient(s)	Division Reporting
FTE State Employees	State Auditor	Administration
Employees Quarterly Report	Texas Workforce Commission	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration
Annual Financial Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; State Auditor	Administration
ABEST Reconciliation	Legislative Budget Board	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; Legislative Budget Board	Administration
State Use Report	Texas Comptroller of Public Accounts	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration
SORM 200	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	All
Contract Workforce Report	State Auditor; Legislative Budget Board; Governor	Administration
Open Records Online Monthly Report	Office of Attorney General	Professional Services
Fleet Management Report	Texas Comptroller of Public Accounts	Administration
Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration
Veterans Workforce Summary Report	Comptroller	Administration
Space Utilization Survey	Texas Facilities Commission	Administration
SORM Report	SORM	Administration
Agency Fee/Revenue Projections	Legislative Budget Board	Administration
Professional and Consultant Services Report	Legislative Budget Board	Administration
TexFlex Reconciliation Report	Employees Retirement System	Administration
Annual Debt Report	Office of Attorney General	Administration
Procurement Plan	Comptroller	Administration
Audit Corrective Action Plan	State Auditor	Enforcement & Administration

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

10. **To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2013.**

**Status:** Accomplished

**Comment:** Division staff participated in the following activities:

- A. Active participation in the ongoing implementation of the joint agency/HPC Shared Regulatory Database System project.
- B. Health Professions Council Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- C. Continued participation in several HPC centralized services, such as the Courier Service; Shared Employee Training; Shared Information Resource Technology staff; posting of position descriptions, and use of the imaging system.

11. **To manage employees under the supervision of the Division throughout FY2013, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status:** Accomplished

**Comment:** This objective was accomplished through the following activities:

- A. Division Director updated and/or reviewed any revised position descriptions for compliance with all personnel statutes.
- B. Division Director conducted regular staff team meetings for division staff and in-house training sessions.
- C. Division staff participated in personal development seminars and participated in all-staff training, as listed below:
  - EEO Training for all staff
  - Alliance Work Partners “Staying Motivated on the Job”
  - Department of Family Protective Services “Barriers to Effective Listening”
- D. Division Director conducted the annual evaluation of Division employees in August 2013.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

12. To update the Agency Personnel Handbook and the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2013.

**Status:** Accomplished

**Comment:** A complete revision of the Agency Personnel Employee Handbook was distributed to all employees in June 2013.

13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2013.

**Status:** Accomplished

**Comment:** Rules and procedures regarding licensing and registration of pharmacists, pharmacies, interns and pharmacy technicians, are reviewed on a regular basis and recommendations are made as necessary. In particular, division staff contributed to the development of new rules relating to the following:

- Amendments to §§291.6, 295.5, 297.4 concerning license fees for pharmacies, pharmacies, technicians and technician trainees
- Amendments to §§283.12 and 297.10 Concerning Military Spouses

14. To prepare a report on the accomplishment of Division objectives for incorporation into the agency's *FY2012 Annual Report* and submit to the Executive Director by the due date.

**Status:** Accomplished

**Comment:** The Division's first draft of the FY2012 *TSBP Annual Report* was submitted to the Executive Director by the due date. The final draft of the *TSBP Annual Report* was presented to and approved by the Board at its meeting held in August 2013.



**ADMINISTRATIVE SERVICES AND LICENSING DIVISION**

**Objectives (Ongoing) – Licensing**

15. To coordinate the collection of licensing data for *Key Performance Targets* required under the 2012-2013 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2013.

**Status:** Accomplished

**Comment:** The following chart reflects all year-end data for Licensing Measures required to be reported on an annual basis to the Legislative Budget Board. The statistical data was submitted to the Legislative Budget Board and Governor’s Office of Budget, Planning, and Policy by the prescribed due dates, in conjunction with the enforcement performance measures. Within a 5% variance, the division met or exceeded 100% of the Key and Non-Key Performance measures.

<b>Performance Measures</b>	<b>Target Fy2013</b>	<b>Accomplished Fy2013</b>	<b>Key or Non Key (K-NK)</b>	<b>Expectations</b>
Percent of Licensees with No Recent Violations	95%	95.60%	K	Exceeded
Percent of Licenses Who Renew Online	89%	94.90%	K	Exceeded
Percent of New Individual Licenses Issued Online	98%	96.94%	NK	Met
Number of New Licenses issued to Individuals (Pharmacists)	1,300	1,625	K	Exceeded
Number of Licenses Renewed (Individuals – Pharmacists)	14,715	15,877	K	Exceeded
Number of New Registrations Issued to Individuals (Technician and Trainee)	10,000	13,910	NK	Exceeded
Number of Registrations Renewed (Technicians)	14,384	15,051	NK	Exceeded
Percent of New Licenses Issued within 10 days	95%	100%	NK	Met
Percent of Individual Licenses Issued within 7 days	99%	100%	NK	Met
Total Number of Pharmacists Licensed	28,852	29,498	NK	Exceeded
Total Number of Facilities Licensed	6,910	7,350	K	Exceeded
Total Number of Individuals (Technicians & Trainees) Registered	50,000	56,684	NK	Exceeded

**ADMINISTRATIVE SERVICES AND LICENSING DIVISION**

- 16. To register all qualified pharmacist-interns within an average of 20 working days of the receipt of all required documents.**

**Status: Accomplished**

**Comment:** At year end, a total of 2,938 interns (student interns and intern trainees) were certified within one to four days of receipt of required documents. In addition, a total of 4,606 pharmacist preceptors were certified or renewed their certification. At fiscal year-end, a total of 7,925 pharmacists were active preceptors.

- 17. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination for initial licensing or licensing by reciprocity throughout FY2013.**

**Status: Accomplished**

**Comment:** Staff presented intern overviews and a NAPLEX and MPJE Orientation to upcoming graduates of Texas Southern University, University of Houston, Texas Tech University, University of Texas, Texas A&M Health Science Center, Irma Lerma Rangel Colleges of Pharmacy and the University of the Incarnate Word Feik School of Pharmacy.

The following statistics relate to all applicants who were determined eligible and received a score for the NAPLEX and MPJE.

<b>JURISPRUDENCE (MPJE)</b>	<b>TOTALS</b>
Candidates Passing	1441 (93.52%)
Candidates Failing	100(6.48%)
<b>TOTAL ADMINISTERED</b>	<b>1541</b>

<b>NAPLEX</b>	<b>TOTALS</b>
Candidates Passing	834 (93.92%)
Candidates Failing	54 (6.08%)
<b>TOTAL ADMINISTERED</b>	<b>888</b>

The total number of new licenses issued to individuals is as follows:

<b>NEW PHARMACISTS LICENSED – FY2013</b>	
Graduates of Texas Colleges of Pharmacy	590 (36.30%)
Graduates of Out-of-State Colleges of Pharmacy	857 (52.73%)
Credentialed by the Foreign Pharmacist Equivalency Committee	161 (9.90%)
Relicensures	17 (1.04%)
<b>TOTAL</b>	<b>1625</b>

Regarding reciprocity (license transfer) in and out of Texas, 512 candidates were licensed by reciprocity in FY2013. The National Association of Boards of Pharmacy reports that in calendar year 2013, Texas had the largest number of requests to transfer licensure into the state with 950 requests.

**ADMINISTRATIVE SERVICES AND LICENSING DIVISION**

- 18. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2013.**

**Status: Accomplished**

**Comment:** Division Director continued to inform applicants who failed the Board licensing examination(s) three times of the committee recommendations to complete college coursework prior to retaking the examination(s).

- 19. To issue a pharmacist license by examination, score transfer, or reciprocity within an average of ten working days after the date the agency receives the examination results throughout FY2013.**

**Status: Accomplished**

**Comment:** The agency issued 1,625 new pharmacist licenses with an average turnaround time of seven business days from the download of the examination results.

- 20. To issue renewal certificates to all pharmacist candidates within an average of five working days of receipt of the required fee and all required documents throughout FY2013.**

**Status: Accomplished**

**Comment:** The agency renewed 15,877 biennial pharmacist licenses during FY2013. Approximately 91% of eligible pharmacists renewed their licenses online. The average processing time to issue a renewal license from receipt of a completed application was two business days and 100% percent of licenses were issued within seven business days.

The total population of licensed pharmacists for this fiscal year is as follows:

<b>PHARMACISTS LICENSED FY2013</b>	
Active Status	27,911
Inactive Status*	**1,587
<b>TOTALS</b>	<b>29,498</b>

\* Not practicing pharmacy in Texas and not reporting continuing education credits.

\*\*Of the above number, 593 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

- 21. To audit the pharmacists' compliance with continuing education and to initiate complaints on pharmacists who are not in compliance with the rules regarding pharmacists' mandatory continuing education for renewal, in cooperation with the Enforcement team, throughout FY2013.**

**Status: Accomplished**

**Comment:** Continuing education audits were completed for all pharmacists requesting to return to an active status. Due to increasing workload issues, the random continuing education audits were not conducted.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- 22. To issue initial certificates to all pharmacy technician trainee candidates within an average of five working days of receipt of the required documents throughout FY2013.**

**Status: Accomplished**

**Comment:** The agency issued 8,584 new pharmacy technician trainee registrations bringing the total population of active registered technician trainees for this fiscal year to 15,187. Approximately 98% of trainees applied for their registrations online. The average processing time to issue a pharmacy technician trainee registration from receipt of a completed application was one business day and 100% of certificates were mailed within 10 working days or less.

- 23. To issue initial and/or renewal certificates to all pharmacy technician candidates within an average of ten working days of receipt of the required fee and all required documents throughout FY2013.**

**Status: Accomplished**

**Comment:** The agency issued 5,326 new pharmacy technician registrations, and renewed 15,051 registrations on a biennial basis, bringing the total population of active registered technicians for this fiscal year to 41,497. Approximately 98% of pharmacy technicians applied for or renewed their registrations online.

The average processing time to issue a renewal registration from receipt of a completed application was one business day and 95% of certificates were mailed within 10 working days or less.

The average processing time to issue an initial registration from receipt of a completed application was 1.4 business days and 100% of certificates were mailed within 10 working days or less.

- 24. To issue an initial and/or renewal certificate to all pharmacy license applicants on receipt of the required fees and all required documents according to the following guidelines throughout FY2013.**

- A. initial certificates to pharmacy license applicants within an average of 21 working days; and**
- B. renewal certificates to pharmacy license applicants within five working days.**

**Status: Accomplished**

**Comment:** This objective was accomplished through the following activities:

- A. The agency issued 535 new pharmacy licenses, and renewed 3,180 licenses on a biennial basis, bringing the total population of active registered pharmacies for this fiscal year to 7,350. Approximately 27% of eligible pharmacies renewed their licenses online.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

The average processing time to issue a renewal license from receipt of a completed application was four business days and 90% of licenses were mailed within 10 working days or less.

Although a small percentage of pharmacies continue to renew their licenses online, it should be noted that the inefficiencies of the new computer system as well as the lack of automated processes, have necessitated that all new pharmacy applications be received and processed in paper format only. There is no anticipated date that new pharmacy applications will be processed online.

The average processing time to issue an initial license from receipt of a completed application and inspection was five business days, and 90.84% of applications were licensed within 21 working days or less.

- B. The following chart represents the total number of pharmacy licenses (business or facilities) issued by the agency, and includes eight classes of pharmacy licenses.

<b>Number of Pharmacies with an Active License in FY2013</b>	
Class A (Community)	4975
Class B (Nuclear)	35
Class C (Institutional)	1137
Class D (Clinic)	378
Class E (Non Resident)	711
Class F (Free Standing Emergency Medical Centers)	98
Class G (Central Processing)	16
Class H	00
<b>Total</b>	<b>7,350</b>
Remote Pharmacies	1,675

A total of 3,982 change documents were processed as follows:

<b>Pharmacy Applications Processed</b>	
Pharmacy Renewals	3,180
New Licenses Issued [new opens (433) and changes of ownership (102)]	535
Closings	267
Remote Pharmacies	295
<b>Total</b>	<b>4,277</b>

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

25. In cooperation with the Enforcement Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2013, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2013.

**Status:** Accomplished

**Comment:** Fingerprint-based criminal background checks continued on all applicants for pharmacist-intern, pharmacy technician, and pharmacy technician trainee registrations and pharmacist licensure. In addition, quarterly DPS background checks were run on all individuals, once they are licensed or registered.

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# Professional Services Division

## FY2013 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 100% of the Division's 14 objectives for FY2013.
2. Division Director drafted or assisted others in drafting 34 rules and preparing the rules for review by the Board.
3. Division staff prepared and mailed or emailed 1,455 pieces of information during FY2013.
4. Division Director gave 23 presentations/webcasts during FY2013 to over 1,700 pharmacists, pharmacy students, and pharmacy technicians.

**PROFESSIONAL SERVICES DIVISION**

**FY2013 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS**

Division Director began providing monthly online webcast presentations, in addition to regular job duties, in response to the Board's request to increase education to pharmacists and pharmacy technicians. TSBP requested a new position during the 83<sup>rd</sup> Legislative session to assist with providing educational programs.



PROFESSIONAL SERVICES DIVISION

FY2013 ANNUAL REPORT

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**GOAL**

To facilitate agency operations by providing professional services, including rule development, law exam development, and task force support; and by providing information services for the agency, including responses to requests for public information, public speaking engagements to agency customers, the *Newsletter*, and serving as liaison to the *Texas Register*.

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**Objectives (New)**

**To assist the Executive Director, in cooperation with other Divisions, in preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, throughout the 83<sup>rd</sup> Texas Legislative Session.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Attending Public Hearings – Division Director attended or viewed hearings related to the agency’s legislative appropriation request.
- B. Reviewing Legislation – Division Director reviewed numerous bills filed during the 83<sup>rd</sup> Legislative Session that had an impact on the practice of pharmacy and/or agency operations including the following bills:
  - HB 74 regarding exceptions under the Texas Public Information Act
  - HB 2020 regarding Wellness Programs
  - HB 2948 regarding review of agency rules
  - HJR 105 regarding review of agency rules
  - SB 881 regarding access to information
- C. Implementing Legislation – Division Director, with assistance from other Directors, drafted language to implement legislation passed by the 83<sup>rd</sup> Texas Legislature.

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**Objectives (Ongoing)**

- 1. **To develop rules for consideration by the Board relating to professional issues and to assist other divisions with the development of rules pertaining to Board operations.**

**Status: ACCOMPLISHED**

**PROFESSIONAL SERVICES DIVISION**

**Comment:** The Division Director spent a considerable amount of time drafting rules, assisting others in the drafting of rules, and preparing and presenting the rules for review by the Board. Changes required by the Board were made quickly to allow final review by the Board in a timely manner, usually during the same Board meeting. The Division Director drafted 19 rules and assisted others in drafting of 15 additional rules as follows:

<b>RULES</b>
<b>Drafted:</b>
§291.31 regarding Definitions
§291.32 regarding Pharmacists' Duties
§291.17 regarding Inventory
§§291.32, 291.53, 291.125 regarding Pharmacist to Pharmacy Technician Ratio
§§283.12, 297.10 regarding Military Spouses
§291.105 regarding Auto-Refill Programs in Class E Pharmacies
§§291.33, 291.36, 291.54, 291.56, 291.74, 291.76, 291.77, 291.104, 291.106, 291.133 regarding Sterile Compounding
<b>Assisted the Legal Division in Drafting:</b>
§281.6 regarding Mental or Physical Exams
§281.22 regarding Informal Disposition of a Contested Case
§281.61 regarding Definition of Registrant
§281.63 regarding Criminal Offenses
§281.66 regarding Reinstatement
§281.67 regarding Sanctions for Out-of-State Disciplinary Actions
§281.22 regarding Appearance at Informal Hearing
§281.68 regarding Remedial Plan
<b>Assisted the Licensing Division in Drafting:</b>
§§295.8, 297.8 regarding Continuing Education Requirements
§§291.6, 295.5, 297.4 regarding Fees
<b>Assisted Enforcement Division in Drafting:</b>
§291.33 regarding Operation of Class A Pharmacies
§291.34 regarding Records

- To act as agency liaison to the *Texas Register*, coordinate and monitor all submissions to the *Texas Register*, to review and monitor the *Texas Register* for activities of other agencies that would impact TSBP or pharmacy practice, and to provide periodic notice of publications to Board Members, staff, and other interested parties.**

**Status:**       **ACCOMPLISHED**

**Comment:** Division staff accomplished the objective through the following activities:

**RULE SUBMISSIONS TO THE *TEXAS REGISTER***

During FY2013, 34 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew amendments or new Texas Pharmacy rules. Division staff met all deadlines for submissions to the *Texas Register*; monitored the submissions for action, and notified Board Members, TSBP staff, and other interested parties of the status of rules as follows:

**PROFESSIONAL SERVICES DIVISION**

<b>Rules</b>	<b>Type of Action</b>	<b>Published in TxReg as Proposed</b>	<b>Memo to Staff and Others</b>	<b>Published in TxReg as Adopted</b>	<b>Memo to Staff and Others</b>
§281.7	Amendments	FY2012	FY2012	FY2012	9/28/2012
§§281.22, 281.30	Amendments	FY2012	FY2012	FY2012	9/28/2012
§281.64	Amendments	FY2012	FY2012	FY2012	9/28/2012
§291.6	Amendments	FY2012	FY2012	FY2012	9/28/2012
§291.93	Amendments	FY2012	FY2012	FY2012	9/28/2012
§§291.131, 291.133	Amendments	FY2012	FY2012	FY2012	9/28/2012
§§295.5, 295.8	Amendments	FY2012	FY2012	FY2012	9/28/2012
§297.4	Amendments	FY2012	FY2012	FY2012	9/28/2012
Chapter 291 (§§291.71 – 291.76)	Rule Review	FY2012	FY2012	FY2012	9/28/2012
Chapter 303 (§§303.1 – 303.3)	Rule Review	FY2012	FY2012	FY2012	9/28/2012
§291.17	Amendments	9/21/2012	9/28/2012	11/30/2012	12/20/2012
§291.74	Amendments	9/21/2012	9/28/2012	11/30/2012	12/20/2012
§291.93	Amendments	9/21/2012	9/28/2012	11/30/2012	12/20/2012
§291.104	Amendments	9/21/2012	9/28/2012	11/30/2012	12/20/2012
§§291.31, 291.32	Amendments	12/14/2012	12/20/2012	3/8/2013	3/27/2013
§295.8	Amendments	12/14/2012	12/20/2012	3/8/2013	3/27/2013
Chapter 291 (§§291.120-291.121, 291.123, 291.125, 291.127, 291.129, 291.131, 291.133)	Rule Review	12/14/2012	12/20/2012	3/8/2013	3/27/2013
Chapter 297 (§§297.1 – 297.9)	Rule Review	12/14/2012	12/20/2012	3/8/2013	3/27/2013
§281.61	Amendments	3/8/2013	3/27/2013	6/7/2013	--
§291.33	Amendments	3/8/2013	3/27/2013	6/7/2013	--
§291.34	Amendments	3/8/2013	3/27/2013	Withdrawn	
§297.8	Amendments	3/8/2013	3/27/2013	6/7/2013	--
§281.6	Amendments	6/28/2013	--	8/30/2013	FY2014
§281.22	Amendments	6/28/2013	--	8/30/2013	FY2014
§§281.63, 281.66, 281.67	Amendments	6/28/2013	--	8/30/2013	FY2014
§291.34	Amendments	6/28/2013	--	8/30/2013	FY2014
§291.6	Amendments	8/23/2013	FY2014	FY2014	FY2014
§295.5	Amendments	8/23/2013	FY2014	FY2014	FY2014
§297.4	Amendments	8/23/2013	FY2014	FY2014	FY2014

**OPEN MEETING SUBMISSIONS TO THE TEXAS REGISTER**

Fourteen notices of open meetings scheduled during FY2013 were submitted by the Division to the *Texas Register* for publication. The submissions were as follows:

<b>Type of Submission</b>	<b>Date Published</b>
Open Meeting 11/6/12 – Board Business Meeting	10/25/12
Open Meeting 11/26/12 – Disciplinary Panel Hearing	11/16/12
Open Meeting 12/12/12 – Disciplinary Panel Hearing	12/10/12
Open Meeting 1/15/13 – Task Force on Compounding Sterile Preparations	1/3/13
Open Meeting 2/5/13 – Board Business Meeting	1/17/13

**PROFESSIONAL SERVICES DIVISION**

<b>Type of Submission</b>	<b>Date Published</b>
Open Meeting 2/5/13 – Public Hearing	1/17/13
Open Meeting 2/20/13 – Task Force on Compounding Sterile Preparations	2/11/13
Open Meeting 3/4/13 – Disciplinary Panel Hearing	2/25/13
Open Meeting 4/9/2013 Task Force on Compounding Sterile Preparations	3/26/13
Open Meeting 4/27/13 – Board Forum	4/3/13
Open Meeting 5/7/13 – Board Business Meeting	4/22/13
Open Meeting 6/27/13 – Disciplinary Panel Hearing	6/11/13
Open Meeting – 7/26/13 Board Forum	7/11/13
Open Meeting – 8/6/13 Board Meeting	7/23/13

**3. To respond to open records requests throughout FY2013, in accordance with the procedures set forth in the Texas Public Information Act.**

**Status: ACCOMPLISHED**

**Comment:** As indicated in the following chart, TSBP experienced less than a 1% decrease in the number of requests for records in FY2013, as compared to FY2012. However, the number of licensees has continued to increase.

**OPEN RECORDS REQUESTS FY09 through FY13**

<b>Fiscal Year</b>	<b>Verbal Requests</b>		<b>Written Requests</b>		<b>Total # of Requests</b>		<b>Monthly Average</b>		<b>% Change from Prior Fiscal Year</b>	
	<b># of Requests</b>	<b># of Licensees</b>	<b># of Requests</b>	<b># of Licensees</b>	<b># of Requests</b>	<b># of Licensees</b>	<b># of Requests</b>	<b># of Licensees</b>	<b># of Requests</b>	<b># of Licensees</b>
FY09	163	163	1,452	2,466	1,615	2,629	135	219	+40%	+1%
FY10	96	111	1,441	1,979	1,537	2,090	128	174	-5%	-21%
FY11	124	131	1,445	2,115	1,569	2,246	131	187	+2%	+7%
FY12	238	295	1,140	2,086	1,378	2,381	115	198	-13%	+6%
FY13	199	239	1,173	2,301	1,372	2,540	114	212	<-1%	+7%

**4. To provide information to Board staff and customers, including responses to surveys and questionnaires, oral and written communication, and public speaking engagements, as needed and required throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** Division staff accomplished this objective through the following activities:

- A. During FY2013, the Division sent out 1,455 pieces of written information including emails, packets of information, and information regarding rules and open meetings. The Division continued to use Mail Chimp, an online email system used to manage email addresses and send email notices. The use of Mail Chimp improved agency efficiency by using less paper and postage. The number of subscriptions to the account steadily increased with just over 6,000 subscribers at the end of the FY2013.
- B. The Division Director gave ten presentations to over 850 individuals as indicated in the following chart:

**PROFESSIONAL SERVICES DIVISION**

<b>Date</b>	<b>Group</b>	<b>Attendance (Approx.)</b>
9/6/12	Westlake High School Pharmacy Technician Program	20
9/14/12	Vendor Drug Program Pharmacists Meeting	7
9/26/12	HEB Pharmacists' Conference, San Antonio	300
11/30/12	University of Texas College of Pharmacy P2 Students	100
4/18/13	University of Houston College of Pharmacy P2 Students	120
4/19/2013	San Jacinto College Pharmacy Technicians, Austin	20
4/26/2013	Lone Star Association of Charitable Clinics Conference, Austin	50
4/27/2013	Texas Society of Health-System Pharmacists Annual Seminar, Austin	100
5/23/2013	Rio Grande Valley Pharmacy Association, McAllen	40
8/12/2013	University of North Texas School of Pharmacy P1 Students, Fort Worth	100
<b>TOTAL</b>		<b>857</b>

C. The Division Director gave 13 online presentations using GoToMeeting to 895 individuals as indicated in the following chart:

<b>Date</b>	<b>Group</b>	<b>Attendance (Approx.)</b>
9/18/12	Texas Pharmacy Laws and Rules Update	34
10/25/12	Pharmacist-in-Charge Training	12
11/28/12	Texas Pharmacy Laws and Rules Update	37
12/5/12	Pharmacist-in-Charge Training	149
1/22/13	Pharmacist-in-Charge Training	71
1/25/13	Regulating Pharmacy Technicians in Texas	5
2/28/13	Texas Pharmacy Laws and Rules Update	96
2/28/13	Texas Pharmacy Laws and Rules Update	138
4/11/13	Pharmacist-in-Charge Training	103
5/21/13	Texas Pharmacy Laws and Rules Update	73
6/3/13	Regulating Pharmacy Technicians in Texas	15
7/16/13	Pharmacist-in-Charge Training	91
8/22/13	Texas Pharmacy Laws and Rules Update	71
<b>TOTAL</b>		<b>895</b>

## PROFESSIONAL SERVICES DIVISION

- D. The Division Director provided training and information to new employees and pharmacist-interns regarding the operation of the Professional Services Division.
- E. The Division Director developed an education display that was exhibited at the following meetings:
- HEB Pharmacists' Conference
  - Texas Society of Health-System Pharmacists Annual Seminar
  - Texas Pharmacy Association Annual Meeting
- F. The Division Director along with the General Counsel developed and produced an educational video regarding "Information for the Pharmacist-in-Charge." The video was posted on You Tube with over 1,100 views at the end of FY2013.
- G. The Division Director along with the General Counsel developed two tutorial videos regarding "Change of Address" and "Change of Employment". The videos were posted on You Tube in August 2013 and had a total of over 200 views.
- H. Other Activities
- The Division Director routinely answered questions from Enforcement and Licensing staff concerning the laws and rules, including their applicability to specific situations.
  - The Division Director routinely monitored the TSBP Website. Changes and/or updates were forwarded to Network Specialist Todd Hayek.
  - Facebook, Twitter, and YouTube continued to be useful tools to provide information. At the end of FY2013, over 2,500 individuals "liked" TSBP on Facebook and over 1,000 individuals "followed" TSBP on Twitter.

5. **To publish an Internet version of the *Newsletter* during FY2013, in order to promote voluntary compliance with the law by providing information to educate pharmacists about their responsibilities under current law and rules, and to provide information consistent with the responsibilities of the Board.**

**Status:** ACCOMPLISHED

**Comment:** Three issues of the *TSBP Newsletter* were published on the TSBP website during FY2013.

Throughout FY2013, an email subscription to the Newsletter was available on the TSBP website. Individuals were able to subscribe to the Newsletter by providing an email address. Over 6,000 individuals were subscribed to the email notification as of the end of FY2013.

PROFESSIONAL SERVICES DIVISION

6. To work with the National Association of Boards of Pharmacy (NABP) in the ongoing development of the Multi-State Pharmacy Jurisprudence Examination (MPJE); coordinate with other staff the review of MPJE item pools on an agreed timetable with NABP to determine appropriate questions for Texas; and to provide new questions for the MPJE as appropriate or requested by NABP.

Status: ACCOMPLISHED

Comment: The Division accomplished this goal with the cooperation of agency personnel who assisted in the reviews of the MPJE item pool. The Division Director and agency personnel participated in the following activities in support of the MPJE program:

Date	Activity	Personnel
March 20 – 22, 2013	MPJE Texas Item Writing Workshop, Chicago, IL	Allison Benz

7. To coordinate the updating of the Texas State Pharmacy Law reference manual and provision of the updates to the publisher of the manual and to NABP for inclusion in NABPLAW during FY2013.

Status: ACCOMPLISHED

Comment: Law Reference

Although the Texas State Pharmacy Law Reference manual was not published by TSBP, the Division Director worked closely with the publisher, Lexis Nexis, to ensure that the reference met TSBP requirements.

Law Reference Updates

Updates to the law reference in the form of Rule Memos were provided to Board Members, staff, and other interested parties on:

- September 28, 2012
- December 20, 2012
- March 27, 2013

NABPLAW Updates

The National Association of Boards of Pharmacy (NABP) no longer requires Boards to provide updates for NABPLAW, accordingly, no updates were submitted to NABP during FY2013.

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2013, the update was completed by the Division Director and returned to NABP by the due date.

**PROFESSIONAL SERVICES DIVISION**

- 8. To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** Division staff accomplished this objective through the following activities:

- A. The Division's staff provided professional staff support including communicating with task force members regarding meetings and setting up the meetings. The Task Force on Compounding Sterile Preparations met three times during FY2013 as follows:
- January 15, 2013
  - February 20, 2013
  - April 9, 2013
- B. The Division staff sent out 939 continuing education certificates to individuals for programs presented by TSBP staff.

- 9. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** Division staff accomplished the objective through the following activities:

- A. Division Director assisted the Texas Department of Public Safety (DPS) in the review and approval of plans from seventeen Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners.
- B. Division staff maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- C. Division Director maintained contact with numerous state and federal agencies and other state boards of pharmacy.
- D. Division Director served as liaison to the federal Healthcare Integrity and Protection Data Bank (HIPDB). With assistance from Enforcement staff, 224 Adverse Action Reports were submitted to HIPDB during FY2013, as required by federal law.

- 10. To manage employees under the supervision of the Division throughout FY2013, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status: ACCOMPLISHED**



## PROFESSIONAL SERVICES DIVISION

**Comment:** Performance reviews for Senior Administrative Assistants Leslie Kacer and Lauren Ivey were conducted on August 13, 2013.

In FY2013, Division staff attended general staff meetings and in-house training sessions. In conjunction with General Staff Meetings, Division staff participated in all-staff trainings.

The Division Director and Senior Administrative Assistants Leslie Kacer and Lauren Ivey attended the Office of the Attorney General Open Government Conference on December 3-4, 2012.

The Division Director served as co-chair on the agency's Wellness Committee in conjunction with the General Counsel.

The Division Director assisted with and participated in numerous wellness planning meetings and program activities.

The Division staff participated in Wellness events and seminars and Helping Hands activities.

- 11. To destroy records in accordance with the agency's record retention plan throughout FY2013; and to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director/Secretary for approval throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** During FY2013, the Division accomplished this goal as follows:

**A. Records Management**

Records in the possession of the Division scheduled for destruction during FY2013 under the approved Record Retention Schedule were identified and destroyed.

**B. Policies and Procedures**

The policies and procedures for handling Open Records Requests, submitting information to the *Texas Register*, and destroying records according to the Record Retention Schedule were reviewed in FY2013. In addition, Division Director reviewed sections of the Agency Personnel Employee Handbook.

- 12. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2013.**

**Status: ACCOMPLISHED**

**PROFESSIONAL SERVICES DIVISION**

**Comment:** The Division Director made numerous recommendations to update the Board rules. The Division Director also made recommendations to keep the TSBP website current and easier to use.

**13. To prepare a report on the accomplishment of Division objectives, for incorporation in the agency's *FY2012 Annual Report*, and submit to the Executive Director by the due date.**

**Status: ACCOMPLISHED**

**Comment:** The Division's first draft of the *FY2012 Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting in August 2013.

## FY2013 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of its Objectives for FY2013.
2. TSBP met or exceeded all six key enforcement-related performance measures for FY2013 (within a 5% variance), including number of complaints received, number of complaints resolved, and average complaint resolution time. See Ongoing Objective #1 for further information regarding performance measures.
3. TSBP received and resolved more complaints in FY2013 than in any fiscal year. Data regarding the past five fiscal years is reflected in the chart below:

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY09	5,290	-8%	6,182	+15%	117%	211 Days	+8%
FY10	5,702	+8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	-<1%	5,840	+6%	102%	195 Days	+7%
FY12	5,830	+2%	5,766	-1%	99%	204 Days	+5%
FY13	5,927	+2%	6,552	+14%	111%	187 Days	-8%

4. Assistant Division Director Paul Holder, R.Ph., Pharm.D., continued to serve as preceptor for students from Texas Colleges of Pharmacy. In FY2013, Dr. Holder served as a preceptor to five students from three Colleges of Pharmacy (see Ongoing Objective #8 for further details).
5. Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 2,897 complaint files were scanned during FY2013, which represented a 35% increase over FY2012, when approximately 2,150 complaint files were imaged.
6. During FY2013, Division staff responded verbally to 21,323 telephone calls received via the Compliance Queue Phone Line and responded in writing to 770 inquires received via the Rx Law System (a service that TSBP provides to customers who submit their on-line inquiries through the TSBP website). Division staff also made 12 presentations to an estimated 668 individuals (see Ongoing Objective #7 for further details). In addition, Field investigators also made over 1,055 contacts with 266 law enforcement agencies (see Ongoing Objective #5).
7. Division staff underwent three successful audits during FY2013: in September 2012, the agency passed the audit conducted by the Department of Public Safety (see Ongoing Objective #4 for further details); in October 2012, auditors from the State Auditor's Office (SAO) completed their follow-up audit of Division files/records relating to an audit the SAO conducted in 2008 (the final SAO report noted very few deficiencies); and in January 2013, the Texas Commission on Law Enforcement conducted an audit of Field Investigators' training records (two minor recordkeeping errors were noted).

## ENFORCEMENT DIVISION

8. Division staff collected 58 samples of compounded preparations during FY2013, which represented 30 more samples than were collected in FY2012 (107% increase), and 49 of the samples (84% of total) were sterile preparations (see Ongoing Objective #2 for additional information.)

### FY2013 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Division staff continued to experience problems due to lack of adequate work space.
2. During FY2013, the Division experienced 16 staffing changes (see Ongoing Objective #11 for further details regarding personnel changes).
3. During FY2013, the Field Compliance Staff conducted 1,698 pharmacy inspections, and thereby, fell short of the goal of conducting 2,000 inspections by 302 pharmacies. The goal was not met due to vacancies/absences, as described below:
  - Most significantly, in September 2012, Compliance Officer Mike Ethridge, R.Ph., retired after 20 years of service. This position was not filled until April 2013, which left the San Antonio/South Texas Region vacant for over eight months;
  - One Inspector was on medical leave for three months; and
  - One Inspector was re-assigned to the Austin office for two months to cover a vacant in-house Enforcement Officer position.

This fiscal year marks the first time since FY2005 that the Compliance Field Staff has not met the inspection goal.

4. Of the 58 samples of compounded preparations that were collected by Division staff during FY2013, test results indicated that three of the preparations (5%) failed to yield the acceptable potency results. However, 100% of the sterile preparations collected in FY2013 were sterile and free of endotoxins and fungus. See Ongoing Objective #2 for further details regarding sampling program.
5. During FY2013, Division staff spent significant time on the following activities:
  - (A) Division staff assisted TSBP accounting staff to prepare specifications, evaluate proposals, and award bids to two different vendors: one vendor who performs the agency's drug analysis of sampled compounded preparations; and one vendor who provides a peer assistance program.
  - (B) Division staff monitored compliance of 588 disciplinary orders entered in FY2013 (or 86% of the 683 disciplinary orders entered in FY2013) that required some type of monitoring by Division staff (see Ongoing Objective #6 for details).
6. In the fall of 2012, a pharmacy located in Massachusetts prepared sterile preparations that were contaminated with fungus which subsequently resulted in 64 deaths. Although no deaths occurred in Texas, this pharmacy was licensed by TSBP. Due to swift action by TSBP, this pharmacy's license was revoked within one month after TSBP became aware of the situation.

## ENFORCEMENT DIVISION

7. During FY2013, the agency allowed one Field Investigator to continue to serve on the DEA Task Force in Houston to investigate cases involving non-therapeutic dispensing ("pill mill" pharmacies). Although numerous investigations were conducted by the DEA Task Force, none of the cases were accepted by the state prosecutors.
8. During FY2013, TSBP received 378 reports of employee pilferage by 326 individuals resulting in the diversion of 584,344 dosage units of prescription drugs. When compared to FY2012, the number of reports increased by 23% (264 reports in FY2012) and the number of suspects increased (264 persons in FY2012), but the number of lost/stolen prescription drugs decreased by 31% (849,419 dosage units reported missing in FY2012).

ENFORCEMENT DIVISION

FY2013 ANNUAL REPORT

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GOAL

To promote voluntary compliance with pharmacy laws and rules. To monitor compliance with pharmacy laws and rules. To enforce pharmacy laws and rules through inspections and investigations of pharmacists and pharmacies. To monitor the complaint process and transfer complaints involving substantive allegations to the TSBP Legal Division for review and potential prosecution. To monitor compliance with Disciplinary Orders. To provide enforcement information and information regarding pharmacy laws and rules to agency customers.

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Objectives (New)

**To assist the Executive Director, in cooperation with other Divisions, preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, throughout the 83rd Texas Legislative Session.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

Division Director attended two budget hearing as a resource witness, as described below:

- February 11, 2013 – Senate Finance
- February 14, 2013 – House Subcommittee on Article 8 agencies

In addition, Division Director reviewed several bills for fiscal impact to agency and Division operations, including:

- S.B. 316 – substitution of certain opioid analgesic drugs
- H.B. 1036 and H.B. 1358 – relating to the regulation of pharmacy benefit managers
- S.B. 404 – relating to complaints filed with TSBP
- S.B. 1100 – relating to the licensing and inspections of out-of-state pharmacies
- S.B. 500 – relating to addition of two Board Members to TSBP

Division Director also discussed the agency's projected targets for Enforcement performance measures with Legislative Budget Board staff, who changed some of the proposed targets.

**ENFORCEMENT DIVISION**

**Objectives (Ongoing)**

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2012-2013 Appropriations Act to Executive Director by specified due dates throughout FY2013; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor’s Budget Office regarding performance measures.**

**Status: ACCOMPLISHED**

**Comment:** Throughout FY2013, Division staff collected data relating to enforcement and peer assistance performance measures. The data was certified and submitted to the Legislative Budget Board (LBB) and Governor’s Office of Budget, Planning & Policy (GBO) by the prescribed due dates, in conjunction with licensing-related performance measures. Statistics regarding three enforcement-related performance measures (Number of Jurisdictional Complaints Resolved, Average Complaint Resolution Time, and Number of Individuals Participating in a Peer Assistance Program) were reported to the LBB and GBO on a quarterly basis throughout FY2013. The other eight measures were reported to the LBB and GBO at year-end (annual basis).

TSBP met or exceeded, within a 5% variance, 10 of the 11 enforcement-related performance measures (91%). However, all six key performance measures were met or exceeded (within a 5% variance), as indicated in the chart below:

<b>Enforcement-Related Performance Measure</b>	<b>FY13 Projected Performance</b>	<b>FY13 Performance Attained</b>	<b>Key or Non-Key (K/NK)</b>	<b>Projected Target Met?*</b>
<b>Outputs:</b>				
Inspections	1,800	1,698	NK	Not Met
Jurisdictional Complaints Resolved	4,980	6,504	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	160	189	K	Exceeded
<b>Efficiency:</b>				
Average Time for Jurisdictional Complaint Resolution	180	187	K	Met
<b>Outcomes:</b>				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	11.0%	11.32%	K	Met
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	95.0%	95.6 %	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	6.0%	4.7%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	50.0%	66.34%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	30.0%	21.21%	NK	Exceeded
One-Year Completion Rate for Participants in Peer Assistance Program	75.0%	90.57%	NK	Exceeded
<b>Explanatory:</b>				
Jurisdictional Complaints Received	5,000	5,891	K	Exceeded

\* Within a 5% variance, TSBP’s actual performance was either: equivalent to projected performance (“Met”) or better than projected performance (“Exceeded”).

## ENFORCEMENT DIVISION

2. To monitor pharmacy inspections and pharmacists' practice by conducting 2,000 inspections, inspection-visits, and/or visits, including follow-up inspections to "Warning Notices" throughout FY2013. To inspect pharmacies and monitor pharmacists' practice throughout FY2013, according to the following priorities:
- A. pharmacists and pharmacies who are the subject of a complaint received by TSBP or a disciplinary order entered by TSBP;
  - B. new pharmacies or pharmacies with a recent change of ownership;
  - C. pharmacies that have received a "Warning Notice" (follow-up inspections);
  - D. requests for inspection by licensee;
  - E. pharmacies with a preceptor working in the pharmacy; and
  - F. routine inspections.

**Status:** PARTIALLY ACCOMPLISHED

**Comment:** TSBP Compliance Field Staff conducted 1,698 inspections during FY2013. The term "inspections" includes inspections, pre-inspections, partial-inspections, and inspection-visits. These terms are described below:

- A. Inspections are full inspections of licensed facilities in which Compliance field staff check the facilities for compliance with each of the items on the inspection report form.
- B. Pre-Inspections are partial inspections that occur prior to TSBP issuing the pharmacy license. The Compliance field staff determines if the pharmacy has the necessary items to open and operate a pharmacy in compliance with the laws and rules governing the practice of pharmacy. A pharmacy license is not issued to the facility unless the facility can pass the pre-inspection process.
- C. Partial-Inspections are inspections of licensed facilities in which Compliance field staff check the facility for compliance with a portion of the items on the inspection report form. In addition, partial inspections include follow-up inspections of pharmacies that received a "Warning Notice" to determine if the pharmacies have corrected the discrepancies listed on the "Warning Notice." Follow-up inspections are conducted within six months after the pharmacy has notified the Board in writing that the discrepancies have been corrected.
- D. Inspection-Visits are inspections in which Compliance field staff generally do not complete an inspection report form. Inspection-visits include inspections of non-licensed facilities that are operating a pharmacy (e.g., medical supply house), visits made to pharmacies that have closed (and did not notify the Board), and visits to "new" pharmacies that have not opened for business. The last two situations are discovered by Compliance field staff after arriving at the addresses listed in Board records.



## ENFORCEMENT DIVISION

Statistics regarding these inspections are set forth below:

<b>Total Inspections by Type</b>	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>% of FY13</b>	<b>3-Year Average</b>	<b>% of 3-Yr. Average</b>
Inspections	1,806	1,633	1,300	77%	1,580	76%
Pre-Inspections	195	166	170	10%	177	8%
Partial-Inspections	308	237	157	9%	234	11%
Inspection-Visits	15	20	6	<1%	14	1%
Attempted Inspections	74	64	49	3%	62	3%
Other	42	15	16	1%	24	1%
<b>Total</b>	<b>2,440</b>	<b>2,135</b>	<b>1,698</b>	<b>100%</b>	<b>2,091</b>	<b>100%</b>

<b>Number of Inspections/Visits by Class</b>	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>% of FY13</b>	<b>3-Year Average</b>	<b>% of 3-Yr. Average</b>
Class A Pharmacies	1,909	1,776	1,425	84%	1,703	81%
Class B Pharmacies	3	5	0	<1%	3	<1%
Class C Pharmacies	377	255	199	12%	277	13%
Class D Pharmacies	147	91	67	4%	102	5%
Class F Pharmacies	4	8	4	<1%	5	<1%
Class G Pharmacies***	0	0	3	<1%	1	<1%
<b>Total</b>	<b>2,440</b>	<b>2,135</b>	<b>1,698</b>	<b>100%</b>	<b>2,091</b>	<b>100%</b>

<b>Number of Warning Notices Issued by Class*</b>	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>% of FY13**</b>	<b>3-Year Average</b>	<b>% of 3-Yr. Average</b>
Class A Pharmacies	459	449	519	87%	476	85%
Class B Pharmacies	0	1	0	N/A	0	N/A
Class C Pharmacies	84	46	62	10%	64	11%
Class D Pharmacies	23	14	13	2%	17	3%
Class F Pharmacies	0	1	3	<1%	1	<1%
Class G Pharmacies***	0	0	0	N/A	0	N/A
<b>Total</b>	<b>566</b>	<b>511</b>	<b>597</b>	<b>100%</b>	<b>558</b>	<b>100%</b>

\* A pharmacy may be issued a "Warning Notice" for non-compliance with more than one condition.

\*\* This figure is the number and percentage of pharmacies receiving a "Warning Notice" during an inspection/visit and is based on the number of inspections/partial-inspections/visits conducted for the particular class of pharmacy.

\*\*\* New class added during Fiscal Year 2013

**ENFORCEMENT DIVISION**

<b>Conditions Receiving "Warning Notices" FY2013</b>						
Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2013. Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2011	FY2012	FY2013	3-Year Average	% FY2013	% 3-Year Average
<b>Equipment</b>	<b>47</b>	<b>35</b>	<b>34</b>	<b>39</b>	<b>2%</b>	<b>3%</b>
Balance Failed Inspection	34	21	23	26		
Equipment Inspection Due (Not Balance)	13	13	11	12		
Insufficient Equipment	0	1	0	0		
<b>Pharmacy Technicians</b>	<b>182</b>	<b>176</b>	<b>225</b>	<b>194</b>	<b>13%</b>	<b>14%</b>
No/Incomplete Training	148	138	185	157		
No/Improper Supervision	21	26	27	25		
Improper Registration	12	9	8	10		
No Name Tags	1	3	5	3		
<b>Inadequate Library</b>	<b>52</b>	<b>77</b>	<b>71</b>	<b>67</b>	<b>4%</b>	<b>5%</b>
<b>Counseling Area</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>N/A</b>	<b>N/A</b>
<b>Licenses</b>	<b>127</b>	<b>145</b>	<b>184</b>	<b>152</b>	<b>11%</b>	<b>11%</b>
Licenses Not Posted	118	139	173	143		
Delinquent Licenses	9	6	11	9		
<b>Prescriptions</b>	<b>154</b>	<b>122</b>	<b>109</b>	<b>128</b>	<b>6%</b>	<b>9%</b>
Lack Proper Information	58	39	30	42		
Prescription Label Incorrect	90	79	71	80		
Triplicate Non-Compliance	6	4	8	6		
<b>Drug Stock/Environment</b>	<b>115</b>	<b>144</b>	<b>184</b>	<b>148</b>	<b>11%</b>	<b>11%</b>
Improper Environment	38	29	55	41		
Out-of-Date Drug Stock	37	59	70	55		
Security	19	37	36	31		
Unsanitary	14	17	17	16		
Improper Drug Storage	2	1	5	3		
Area for Non-Sterile Compounding	0	1	0	0		
Violation of Limited Formulary	4	0	1	2		
Prohibited Drugs (Class D)	1	0	0	0		
<b>Inventory</b>	<b>84</b>	<b>96</b>	<b>104</b>	<b>95</b>	<b>6%</b>	<b>7%</b>
No Annual Inventory	44	54	33	44		
No Change of Ownership Inventory	2	1	1	1		
No Change of PIC Inventory	18	18	31	22		
Incomplete Inventory	17	23	35	25		
No Perpetual inventory (Class C)	3	0	1	1		
Improper Drug Destruction	0	0	3	1		
<b>Improper Prepackaging Procedures</b>	<b>45</b>	<b>27</b>	<b>16</b>	<b>29</b>	<b>1%</b>	<b>2%</b>

**ENFORCEMENT DIVISION**

<b>Conditions Receiving "Warning Notices" FY2013 <i>Continued</i></b>								
Type of Violation	FY2011	FY2012	FY2013	3 Year Average	% FY2013	% 3-Year Average		
<b>Computer Systems</b>	<b>100</b>	<b>97</b>	<b>78</b>	<b>92</b>	<b>5%</b>	<b>7%</b>		
Computer Records Incomplete	81	82	75	79				
Computer Records Non-Compliance	19	15	3	12				
<b>Records</b>	<b>90</b>	<b>62</b>	<b>143</b>	<b>98</b>	<b>8%</b>	<b>7%</b>		
Records Not Available	28	32	67	42				
DEA Order Forms Incomplete	0	0	0	0				
Absence of R.Ph. Record	15	6	10	10				
Rx Not Separated	1	2	6	3				
Rx Records not Numerical Order	16	2	2	7				
Improper Transfer of RX copies	0	0	3	1				
Invoices Not Separated/Retrievable	14	11	23	16				
Records for Non-Sterile Compounds	12	6	19	12				
No Written Information on Prescription	4	3	13	7				
Improper Refill Documentation	0	0	0	0				
<b>OBRA Violations</b>	<b>69</b>	<b>128</b>	<b>175</b>	<b>124</b>			<b>10%</b>	<b>9%</b>
Written Information Not Provided	4	3	13	7				
No Patient Counseling	63	125	159	116				
PMR Absent or Incomplete	2	0	3	2				
<b>Sterile Pharmaceutical Violations</b>	<b>87</b>	<b>93</b>	<b>154</b>	<b>111</b>	<b>9%</b>	<b>8%</b>		
No/Incomplete QA/QC	6	10	14	10				
No/Incomplete P&P Manual	42	42	58	47				
No/Inadequate Preparation Area	30	29	51	37				
IV Preparation	5	11	26	14				
No DUR	3	1	3	2				
Absence of R.Ph. Pick-Up-Records	1	0	1	1				
Cytotoxic/Bio Procedures	0	0	1	0				
<b>No/Incomplete Non-Sterile Cpd Records</b>	<b>12</b>	<b>6</b>	<b>19</b>	<b>12</b>	<b>1%</b>	<b>1%</b>		
<b>Improper Distribution</b>	<b>11</b>	<b>8</b>	<b>18</b>	<b>12</b>	<b>1%</b>	<b>1%</b>		
<b>No PIC</b>	<b>17</b>	<b>23</b>	<b>18</b>	<b>19</b>	<b>1%</b>	<b>1%</b>		
<b>Dispensing</b>	<b>54</b>	<b>80</b>	<b>106</b>	<b>80</b>	<b>6%</b>	<b>6%</b>		
Improper Dispensing	31	54	70	52				
Aiding and Abetting	0	1	4	2				
Illegal Dispensing	0	2	5	2				
Substitution Non-Compliance	0	2	4	2				
Out-of-State Rxs for Controlled Substances	0	0	0	0				
Improper Emergency Room Dispensing	1	1	1	1				
Improper Automated Dispensing Procedures	19	18	22	20				
Improper Provision	3	2	0	2				

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<b>Improper Advertising</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>	<b>N/A</b>
<b>Conditions Receiving "Warning Notices" FY2013 <i>Continued</i></b>						
Type of Violation	FY2011	FY2012	FY2013	3 Year Average	% FY2013	% 3-Year Average
<b>Notification Violation</b>	<b>23</b>	<b>22</b>	<b>42</b>	<b>29</b>	<b>2%</b>	<b>2%</b>
<b>Theft &amp; Loss of C/S Not Reported</b>	<b>10</b>	<b>14</b>	<b>18</b>	<b>14</b>	<b>1%</b>	<b>1%</b>
<b>Gray Market diversion</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>N/A</b>	<b>N/A</b>
<b>Improper Closing/Change of Ownership</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>	<b>N/A</b>
<b>Improper Inpatient Procedures (Class C)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>	<b>N/A</b>

The total number of inspections, partial-inspections, and inspection-visits by priority are indicated below for the past three fiscal years:

<b>Purpose of Inspection (In Order of Priority)</b>	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>% of FY13</b>	<b>3-Yr. Avg.</b>	<b>% of 3-Yr. Avg.</b>
Complaint	128	156	204	12%	163	8%
Follow-up to Disciplinary Order	12	12	24	1%	16	1%
Pre-Inspection New	204	184	169	10%	186	9%
New Pharmacies	112	107	72	4%	97	5%
Change of Ownership	11	13	7	<1%	10	<1%
Preceptor	189	116	10	1%	105	5%
Follow-up to "Warning Notice"	231	151	113	7%	165	8%
Routine Inspections	1,442	1,303	1,023	60%	1,256	60%
Attempted Inspection	0	0	0	0	0	NA
Other	111	93	76	4%	93	4%
<b>Total</b>	<b>2,440</b>	<b>2,135</b>	<b>1,698</b>	<b>100%</b>	<b>2,091</b>	<b>100%</b>

**SUMMARY OF PROGRAM TO SAMPLE AND TEST COMPOUNDED PREPARATIONS**

During Fiscal Year 2013, TSBP submitted for testing 58 compounded preparations from 48 different pharmacies. Test results revealed that three of the 58 samples (5%) were not within acceptable limits for potency.

(1) Non-sterile Preparations -

Of the 58 tested preparations, 9 (16%) were non-sterile preparations. Potency problems were determined in 1 (2%) of the non-sterile preparations.

(2) Sterile Preparations -

Of the 58 tested samples, 49 (84%) were sterile preparations. No sample failed sterility or endotoxin tests. Potency problems were obtained in 2 (3%) of the sterile preparations tested.

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**SUMMARY OF RANDOM COMPOUNDED SAMPLE TESTING PROGRAM**

	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>5-YR AVG</b>
Number of Samples Tested	46	86	37	28	58	51
Number of Non-Sterile Samples	35	58	27	20	9	29.8
Number of Potency Failures	6	13	4	2	1	5.2
Number of Sterile Samples	11	28	10	8	49	21.2
Number of Potency Failures	1	8	4	1	2	3.2
Number of Sterility Failures	0	0	0	1*	0	<1
Number of Fungal Failures**	N/A	N/A	N/A	N/A	0	0
Number of Endotoxin Failures	0	0	0	0	0	0

\*Nasal preparation

\*\*Fungal Testing began in FY 2013

- 3. To coordinate and monitor throughout FY2013, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2013, according to the following priorities:**
- A. Continuing threats to the public welfare requiring a temporary suspension;**
  - B. Complaints filed against licensees/registrants who have a chemical, mental, or physical impairment;**
  - C. Complaints involving the diversion of prescription drugs, through the following illegal means:**
    - **theft of drugs;**
    - **delivering prescription drugs without a prescription;**
    - **dispensing prescription drugs pursuant to an invalid prescription, such as forged or fraudulent prescriptions, prescriptions dispensed following an Internet consultation, and unauthorized refills; and**
    - **failing to keep and maintain accurate records of purchases and disposals of prescription drugs (i.e., audit shortages);**
  - D. Complaints against licensees/registrants who have been convicted of a felony involving offenses that involved drug laws or occurred while engaged in pharmacy practice;**
  - E. Complaints against licensees/registrants who are registered sex offenders;**
  - F. Complaints against licensees/registrants who have been convicted of a felony involving offenses not occurring while engaged in pharmacy practice;**
  - G. Complaints involving applicants for licensure or registration (not including applications for reinstatement);**
  - H. Complaints involving dispensing errors and malpractice reports;**

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- I. **Complaints involving violations of rules relating to patient counseling or drug regimen review;**
- J. **Complaints involving health-care fraud or fraud, deceit, and misrepresentation in the practice of pharmacy, including aiding and abetting a non-licensed individual in the practice of pharmacy;**
- K. **Complaints against licensees/registrants who have been convicted of a misdemeanor that involved drug laws or occurred while engaged in pharmacy practice;**
- L. **Applications involving reinstatement of revoked licenses and registrations;**
- M. **Complaints involving other violations of the laws and rules relating to the practice of pharmacy (e.g., CE audit shortages; falsification of renewal applications; possession of samples or misbranded/adulterated drugs; working with an expired license or registration; and falsification of response to warning notices);**
- N. **Complaints against licensees/registrants who have been convicted of a misdemeanor involving offenses not occurring while engaged in pharmacy practice; and**
- O. **Complaints against licensees/registrants who have been subject to a disciplinary action by another state board of pharmacy.**

**Status: ACCOMPLISHED**

**Comment:** TSBP received 97 more complaints (2% increase), and closed 786 more complaints (14% increase) in FY2013 than in the prior fiscal year. In addition, the average complaint resolution time decreased by 17 days (8% decrease), as reflected in the chart below:

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY09	5,290	-8%	6,182	+15%	116%	211 Days	+8%
FY10	5,702	-8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	<-1%	5,840	+6%	102%	195 Days	+7%
FY12	5,830	+2%	5,766	-1%	99%	204 Days	+5%
FY13	5,927	+2%	6,552	+14%	111%	187 Days	-8%

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The following chart indicates the number of dispensing error complaints closed during the past five years:

**DATA ON DISPENSING ERROR COMPLAINTS  
CLOSED FY09– FY13**

<b>Type of Dispensing Error</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>5-Year Avg.</b>
Wrong Drug/Strength or Wrong Directions for Use	115	100	288	196	104	161
Mislabeling	11	8	14	19	18	14
Dispensed Wrong Quantity	125	60	70	67	78	80
Dispensed Outdated Drug	3	3	3	6	7	4
Packaging/Delivery Error	24	17	23	21	23	22
Error + No Counseling	3	5	5	11	6	6
<b>Total # Dispensing Error Complaints</b>	<b>281</b>	<b>193</b>	<b>403</b>	<b>320</b>	<b>236</b>	<b>287</b>
<b>Total # Complaints Closed</b>	<b>6,182</b>	<b>5,512</b>	<b>5,840</b>	<b>5,766</b>	<b>6,552</b>	<b>5,970</b>
<b>% Dispensing Error Complaints</b>	<b>5%</b>	<b>4%</b>	<b>7%</b>	<b>6%</b>	<b>4%</b>	<b>5%</b>

Additional complaint statistics on closed complaints for the past three fiscal years are outlined below:

**DATA ON COMPLAINTS CLOSED FY2011 – FY2013**

<b>Form of Complaints</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>% of FY13</b>	<b>3-Yr. Avg.</b>	<b>% of 3-Yr. Avg.</b>
Telephone	44	29	31	<1%	35	1%
Letter	141	133	144	2%	139	2%
TSBP Complaint Form	234	177	201	3%	204	3%
HPC 800 #	42	14	22	<1%	26	<1%
Fax	53	51	76	1%	60	1%
Visit	5	5	0	N/A	3	<1%
Agency Report	8	13	6	<1%	9	<1%
Inspection	120	210	191	3%	174	3%
Interoffice Referral	11	10	1	<1%	7	<1%
Licensure Application	2,475	2,564	2,374	36%	2,471	41%
Data Bank	6	13	10	<1%	10	<1%
Theft/Loss Report	676	683	1,044	16%	801	13%
Investigation	283	415	670	10%	456	8%
Intra-Agency Referral	7	14	12	<1%	11	<1%
Malpractice Report	11	7	4	<1%	7	<1%
Press Clip	2	1	3	<1%	2	<1%
Email *	249	230	212	3%	230	4%
Internet *	635	524	537	8%	565	9%
DPS/quarterly **	836	671	1,009	15%	834	14%
Other	2	2	5	<1%	3	<1%
<b>TOTAL</b>	<b>5,840</b>	<b>5,766</b>	<b>6,552</b>	<b>100%</b>	<b>6,047</b>	<b>100%</b>

\* TSBP accepts complaints via email, as well as through the agency's website (Internet). TSBP makes a distinction between email complaints (where the complainant sends an electronic message/ complaint to a TSBP employee) and Internet complaints (where the complainant completes the on-line TSBP complaint form). TSBP began accepting on-line complaints in the Spring of 2001.

\*\* New code created in FY2009, category includes Quarterly Reports and daily RAP arrest reports.

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**DATA ON COMPLAINTS CLOSED FY2011 – FY2013**

<b>Source of Complaints</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>% of FY13</b>	<b>3-Yr. Avg.</b>	<b>% of 3-Yr. Avg.</b>
Consumer	750	582	663	10%	665	11%
Government Agency	894	730	1,077	16%	900	15%
Pharmacist	55	49	48	1%	51	<1%
Pharmacist (Self)	58	62	85	1%	68	1%
Pharmacist Applicant	204	143	108	2%	152	3%
Technician	21	18	10	<1%	16	<1%
Technician (Self)	58	83	148	2%	96	2%
Tech Applicant	253	271	258	4%	261	4%
Technician Trainee	0	0	1	<1%	N/A	N/A
Tech Trainee (Self)	4	2	4	<1%	3	<1%
Tech Trainee Applicant	1,002	952	754	12%	903	15%
Intern	0	3	2	<1%	2	<1%
Intern Applicant	0	74	85	1%	53	1%
TSBP	1,299	1,529	1,662	25%	1497	25%
Doctor	62	54	61	1%	59	1%
Other Health Professional	29	21	29	<1%	26	<1%
NABP	8	14	10	<1%	11	<1%
PIC, Pharmacy Manager, or Supervisor	778	827	1,197	18%	934	15%
Loss Prevention Officer (Corporate)	14	3	3	<1%	7	<1%
Manufacturing Rep.	1	12	7	<1%	7	<1%
Professional Recovery Network (PRN)	8	11	21	<1%	13	<1%
Insurance Company	9	7	8	<1%	8	<1%
Attorney	12	9	11	<1%	11	<1%
Employee/Ex-Employee	23	41	44	1%	36	1%
Media	4	0	1	<1%	2	<1%
Drug Screening Co.	241	224	189	3%	218	4%
Other	53	45	66	1%	55	1%
<b>TOTAL</b>	<b>5,840</b>	<b>5,766</b>	<b>6,552</b>	<b>100%</b>	<b>6,054</b>	<b>100%</b>



**ENFORCEMENT DIVISION**

**DATA ON CLOSED FY2011 – FY2013 COMPLAINTS**

<b>Subjects of Complaints</b>	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>3-Yr. Average</b>
<b>Licensees (RPh/Pharmacy)</b>	<b>2,080 (36%)</b>	<b>2,024 (35%)</b>	<b>2,696 (41%)</b>	<b>2,267 (37%)</b>
Pharmacist	588	597	770	652
In-State Pharmacy	1,462	1,380	1,870	1,571
Out-of-State Pharmacy	30	47	56	44
<b>Registrants (Intern/Tech)</b>	<b>1,232 (21%)</b>	<b>1,160 (20%)</b>	<b>1,561 (24%)</b>	<b>1,317 (22%)</b>
Intern	16	49	41	35
Technician	748	673	1,070	830
Technician Trainee	468	438	450	452
<b>Applicants (Lic &amp; Reg)</b>	<b>2,478 (42%)</b>	<b>2,528 (44%)</b>	<b>2,243 (34%)</b>	<b>2,417 (40%)</b>
Pharmacist	152	169	149	157
Pharmacy	107	147	127	127
Intern	91	82	87	87
Technician	444	526	526	499
Technician Trainee	1,684	1,604	1,354	1,547
<b>Non-Licensees</b>	<b>50 (&lt;1%)</b>	<b>54 (&lt;1%)</b>	<b>52 (1%)</b>	<b>52 (1%)</b>
Doctor	6	14	20	13
Manufacturer	0	1	1	1
Wholesaler	0	0	1	0
Non-Licensed Facility or Person	25	30	17	24
Insurance Company/ PBM	9	3	8	7
Out-of-State Facility	6	4	4	5
Other	4	2	1	2
<b>TOTAL</b>	<b>5,840</b>	<b>5,766</b>	<b>6,552</b>	<b>6,053</b>

**ENFORCEMENT DIVISION**

**NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2011 – FY2013**

<b>Alleged Violation</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>3-Yr. Avg.</b>	<b>% of 3-Yr. Avg.</b>
<b>Diversion</b>	<b>29</b>	<b>20</b>	<b>11</b>	<b>20</b>	<b>N/A</b>
Controlled Substances (C/S)	18	14	7	13	N/A
Dangerous Drugs (D/D)	1	0	1	1	N/A
Both (C/S & D/D)	5	4	1	3	N/A
Internet Rxs	5	2	2	3	N/A
<b>Unauthorized Dispensing</b>	<b>16</b>	<b>29</b>	<b>20</b>	<b>22</b>	<b>N/A</b>
Controlled Substances	8	11	4	8	N/A
Dangerous Drugs	8	11	10	10	N/A
Both (C/S & D/D)	0	7	6	4	N/A
<b>Illegal Delivery</b>	<b>3</b>	<b>14</b>	<b>3</b>	<b>6</b>	<b>N/A</b>
Controlled Substances	3	13	3	6	N/A
Dangerous Drugs	0	0	0	0	N/A
Both (C/S & D/D)	0	1	0	0	N/A
<b>Illegal Possession</b>	<b>28</b>	<b>23</b>	<b>16</b>	<b>23</b>	<b>N/A</b>
Controlled Substances	24	20	12	19	N/A
Dangerous Drugs	2	3	3	3	N/A
Both (C/S & D/D)	2	0	1	1	N/A
<b>Convictions/Criminal Offenses</b>	<b>1,910</b>	<b>1,886</b>	<b>1,868</b>	<b>1,889</b>	<b>31%</b>
Felony	47	59	34	47	1%
Misdemeanor	250	192	175	206	3%
DWI/PI	484	399	489	457	8%
Deferred Adjudication	352	370	369	364	6%
Offense on Application	777	866	801	815	13%
<b>Dispensing Error</b>	<b>403</b>	<b>322</b>	<b>336</b>	<b>353</b>	<b>6%</b>
Wrong Drug/Strength	288	198	204	230	4%
Mislabeled	14	19	18	17	N/A
Wrong Quantity	70	67	78	72	1%
Outdated Drug	3	6	7	5	N/A
Packaging/Delivery	23	21	23	22	N/A
Dispensing Error and No or Improper Patient Counseling	5	11	6	7	N/A
No or Improper Patient Counseling	30	41	27	33	1%
No or Improper Drug Regimen Review	26	16	35	26	N/A
Theft/Loss of C/S and/or D/D	664	643	1,018	775	13%
Non-Therapeutic Dispensing	40	90	82	71	1%
Action by Other Board	78	123	116	106	2%
Non-Compliance with Substitution Rules	36	33	27	32	<1%
Non-Compliance with Disciplinary Order	364	381	518	421	7%
Non-Compliance with PRN Contract	4	6	12	7	N/A
Interference with Doctor/Patient Relationship	52	41	46	46	<1%
Confidentiality	25	22	29	25	N/A
Failed to Keep Records	5	7	6	6	N/A
Negligence	2	0	0	1	N/A
Unsafe Practice	1	0	0	0	N/A
Compounding	7	5	13	8	N/A
Unprofessional Conduct	0	3	3	2	N/A
Gross Immorality	5	5	1	4	N/A
<b>Fraud</b>	<b>922</b>	<b>939</b>	<b>919</b>	<b>926</b>	<b>15%</b>
Fraud, Deceit & Misrepresentation	0	4	2	2	N/A
Falsified Response to Warning Notice	0	0	0	0	N/A
Falsified Application	901	915	886	901	15%
Filled/Passed Forged Prescription	19	16	23	19	N/A
Insurance Fraud	2	0	5	2	N/A
Medicare Fraud	0	4	3	2	N/A

**ENFORCEMENT DIVISION**

<b>Alleged Violation</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>3-Yr. Avg.</b>	<b>% of 3-Yr. Avg.</b>
<b>Impairment</b>	<b>39</b>	<b>39</b>	<b>38</b>	<b>39</b>	<b>&lt;1%</b>
Probable Cause	14	19	22	18	N/A
Drug & Alcohol	7	1	1	3	N/A
Drug	9	5	3	6	N/A
Alcohol	4	9	8	7	N/A
Physical	0	0	0	0	N/A
Mental	5	5	4	5	N/A
Changed Prescription	37	25	20	27	N/A
<b>Aiding and Abetting</b>	<b>131</b>	<b>204*</b>	<b>158*</b>	<b>164</b>	<b>3%</b>
Non-Therapeutic Prescribing (Doctor)	3	7	13	8	N/A
Excessive Purchases of Controlled Substances	0	2	1	1	N/A
Anabolic Steroids	0	0	1	0	N/A
Grey Market Diversion	0	1	2	1	N/A
Samples	0	2	2	1	N/A
Technician Violation	10	5	15	10	N/A
Improper Security	4	4	4	4	N/A
Problem with OTC Drug	7	3	8	6	N/A
Closed Pharmacy Improperly	4	0	1	2	N/A
Operating Pharmacy without License	4	0	1	2	N/A
Working Conditions	10	10	3	8	N/A
Delinquent License	13	8	2	8	N/A
Kickbacks	1	2	2	2	N/A
No PIC	3	0	0	1	N/A
Recordkeeping Error	55	44	64	54	<1%
Notification Violation	0	1	0	0	N/A
No Annual/PIC/DEA Inventory	1	0	1	1	N/A
C-II Rx	0	2	2	1	N/A
Improper Rx's Issued by Doctors	0	1	0	0	N/A
Advertising	2	2	1	2	N/A
Overcharging	0	0	0	0	N/A
Billing Dispute	40	32	35	36	<1%
Customer Service	38	32	30	33	<1%
Hot Check	0	0	0	0	N/A
Accountability Audit Discrepancies (shortages/overages)	13	11	56	27	N/A
CE Audit	7	4	4	5	N/A
Default on Student Loans	0	0	0	0	N/A
<b>Other Allegations</b>	<b>672</b>	<b>576</b>	<b>876</b>	<b>708</b>	<b>12%</b>
Texas Pharmacy Act	23	10	9	14	N/A
Texas Dangerous Drug Act	6	0	4	3	N/A
Texas Controlled Substances Act	92	53	24	56	<1%
Food Drug & Cosmetic Act	6	3	6	5	N/A
TSBP Rule	185	186	258	210	3%
Other Laws/Rules	360	324	575	420	7%
Request Disciplinary Action	65	57	65	62	1%
Reinstatement	11	12	8	10	N/A
Modification	20	31	33	28	N/A
<b>TOTAL</b>	<b>5,840</b>	<b>5,766</b>	<b>6,552</b>	<b>6,053</b>	<b>100%</b>

N/A – not applicable, value less than 0.01

\* This violation code includes Technicians working with Delinquent/No Registration

**ENFORCEMENT DIVISION**

**ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2011 – FY2013**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>3-Yr. Avg.</b>	<b>% of 3-Yr. Avg.</b>
<b>Investigations Not Resulting in Disciplinary Action:</b>	<b>4,714</b>	<b>4,564</b>	<b>5,260</b>	<b>4,847</b>	<b>80%</b>
Investigate + Dismissal (Warning) Letter	1,417	1,391	1,463	1,424	24%
Investigate + Complaint Closed with Verbal Warning	390	404	167	320	5%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	1,449	1,367	1,993	1,603	26%
Investigate + Lost Jurisdiction (registration expired)	198	151	230	193	3%
Inspections	108	105	140	118	2%
Inspection + Warning Notice or Dismissal Letter	23	48	61	44	1%
Application Withdrawn	335	362	205	301	5%
Other *	794	736	1,001	844	14%
<b>Investigations Resulting in Disciplinary Action:</b>	<b>814</b>	<b>906</b>	<b>840</b>	<b>854</b>	<b>14%</b>
Agreed Board Order	664	752	646	687	11%
Board Order	113	98	90	100	2%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	2	0	0	1	N/A
PNL + Application Withdrawn (with or without Informal Conference)	2	22	66	30	N/A
PNL + Informal Conference + Dismissal Letter	16	20	23	20	N/A
PNL + Informal Conference + Case Dismissed	11	13	14	13	N/A
PNL + Case Dismissed	6	1	1	3	N/A
<b>Referrals To:</b>	<b>46</b>	<b>74</b>	<b>60</b>	<b>60</b>	<b>1%</b>
Medical Board	3	9	4	5	N/A
PRN Program	0	1	1	1	N/A
Supervisor	4	6	4	5	N/A
Other Agency	39	58	51	49	1%
<b>No Action Because:</b>	<b>266</b>	<b>223</b>	<b>392</b>	<b>294</b>	<b>5%</b>
No Violation	21	31	191	81	1%
No Jurisdiction	67	88	46	67	1%
Insufficient Information	14	10	8	11	N/A
Other **	164	94	147	135	2%
<b>TOTAL</b>	<b>5,840</b>	<b>5,767</b>	<b>6,552</b>	<b>6,055</b>	<b>100%</b>

N/A = Not Applicable, value is below 0.01

\* Represents miscellaneous actions, such as: complainant has withdrawn complaint, multiple actions [e.g., investigation and refer to PRN, complainant will not cooperate with investigation, alleged violation has already been addressed by a previous (recent) compliance inspection or the resolution is not described by the above categories].

\*\* Violation not substantive (e.g., report of theft/loss of small quantity of controlled substance).

## ENFORCEMENT DIVISION

During FY2013, TSBP received 378 reports indicating that pharmacies experienced theft of 584,344 dosage units of controlled substances by 326 individuals. See chart below for additional details employee pilferage reports. The chart below is followed by two additional charts which provide a statistical comparison over the past three fiscal years, with regard to the number of number of suspects identified and the number of dosage units pilfered.

### Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2013 (9/1/2012 – 8/31/2013)

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	18	7	0	25	8%	64,162	11%
Pharmacist Intern	0	0	0	0	N/A	0	N/A *
Registered Pharmacy Technician	57	11	0	68	21%	352,383	60%
Pharmacy Technician Trainee	13	0	0	13	4%	38,931	7%
Physician	0	0	0	0	N/A	0	N/A *
Registered Nurse	0	51	0	51	16%	2,878	<1%
Certified Registered Nurse Anesthetist	0	0	0	0	N/A	0	N/A *
Licensed Vocational Nurse	0	17	0	17	5%	1,309	<1%
Delivery – In or Out of Pharmacy	12	0	0	12	4%	15,592	3%
Pharmacy Cashier – Pharmacy Clerk	2	0	0	2	<1%	640	<1%
Pharmacy Staff – Unidentified	72	0	0	72	22%	92,416	16%
Hospital Staff – Unidentified	0	9	0	9	3%	624	<1%
Hospital Staff – Pharmacy Staff	0	8	0	8	3%	72	<1%
Miscellaneous**	48	1	0	49	15%	15,337	3%
<b>TOTALS</b>	<b>222</b>	<b>104</b>	<b>0</b>	<b>326 ***</b>	<b>100%</b>	<b>584,344</b>	<b>100%</b>

\* N/A = Not Applicable, value is below 0.01

\*\* Examples: Non-pharmacy employees; contract workers (e.g., repairmen, cleaning crew).

\*\*\* A total of 378 DEA Reports involving 326 individuals.

**ENFORCEMENT DIVISION**

**Report Submitted to the Texas State Board of Pharmacy  
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies  
Due to Employee Pilferage  
FY2011 - FY2013 (by Individuals)**

CLASSIFICATION OF EMPLOYEE	FY2011		FY2012		FY2013		% Change FY12-FY13
	Total # of Individuals	%	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	18	7%	19	7%	25	8%	32%
Pharmacist Intern	0	N/A	0	N/A	0	N/A	N/A *
Registered Pharmacy Technician	66	26%	100	38%	68	21%	-32%
Pharmacy Technician-in-Training	10	4%	16	6%	13	4%	-19%
Physician	0	N/A	0	N/A	0	N/A	N/A *
Registered Nurse	40	16%	25	9%	51	16%	104%
Certified Registered Nurse Anesthetist	0	N/A	0	N/A	0	N/A	N/A *
Licensed Vocational Nurse	11	4%	6	2%	17	5%	183%
Delivery – In or Out of Pharmacy	2	<1%	5	2%	12	4%	14%
Pharmacy Cashier – Pharmacy Clerk	6	2%	7	3%	2	<1%	-71%
Pharmacy Staff – Unidentified	39	15%	45	17%	72	22%	6%
Hospital Staff – Unidentified	13	5%	10	4%	9	3%	-1%
Hospital Staff – Pharmacy Staff	1	<1%	5	2%	8	2%	6%
Miscellaneous **	49	19%	26	10%	49	15%	88%
<b>TOTALS</b>	<b>255</b>	<b>100%</b>	<b>264</b>	<b>100%</b>	<b>326</b>	<b>100%</b>	<b>23%</b>

\* N/A = Not Applicable, value is below 0.01

\*\* Examples: Non-pharmacy employees; contract workers (e.g., repairmen, cleaning crew).

**ENFORCEMENT DIVISION**

**Reports Submitted to the Texas State Board of Pharmacy  
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies  
Due to Employee Pilferage  
FY2011 - FY2013 (by Dosage Units)**

CLASSIFICATION OF EMPLOYEE	FY 2011		FY2012		FY2013		% Change FY12-FY13
	Total # of Dosage Units	%	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	41,106	7%	60,728	7%	64,162	11%	6%
Pharmacist Intern	0	N/A	0	N/A	0	N/A	N/A *
Registered Pharmacy Technician	324,475	56%	627,488	74%	352,383	60%	-44%
Pharmacy Technician-in-Training	44,166	8%	63,748	7%	38,931	7%	-39%
Physician	0	N/A	0	N/A	0	N/A	N/A *
Registered Nurse	7,339	1%	2,579	0%	2,878	<1%	12%
Certified Registered Nurse Anesthetist	0	N/A	0	N/A	0	N/A	N/A *
Licensed Vocational Nurse	712	<1%	130	0%	1,309	<1%	906%
Delivery – In or Out of Pharmacy	765	<1%	6,771	1%	15,592	3%	130%
Pharmacy Cashier – Pharmacy Clerk	14,703	3%	48,478	6%	640	<1%	-99%
Pharmacy Staff – Unidentified	101,752	18%	28,778	3%	92,416	16%	221%
Hospital Staff – Unidentified	3,223	<1%	1,490	0%	624	<1%	-59%
Hospital Staff – Pharmacy Staff	1	<1%	370	0%	72	<1%	-81%
Miscellaneous **	36,585	6%	8,859	1%	15,337	3%	73%
<b>TOTALS</b>	<b>574,827</b>	<b>100%</b>	<b>849,419</b>	<b>100%</b>	<b>584,344</b>	<b>100%</b>	<b>-31%</b>

\* N/A = Not Applicable, value is below 0.01.

\*\* Examples: Non-pharmacy employees; contract workers (e.g., repairmen, cleaning crew).

## ENFORCEMENT DIVISION

4. **In cooperation with the Licensing Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2013, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2013.**

**Status: ACCOMPLISHED**

**Comments:** Throughout FY2013, Division staff performed background checks, as follows:

- A. Reviewed fingerprint-based criminal background information on all individuals referred by the Licensing Division staff; these individuals included all applicants for a pharmacist license (including applicants for re-licensure and reinstatement) and all applicants for registration (i.e., technician, technician trainee and intern).
- B. Opened new complaints when TSBP received a report regarding arrest(s) on individuals who had been previously fingerprinted; during FY2013, TSBP received 607 such reports (as compared to FY2012 when TSBP received 531 such reports – a 14% increase).
- C. Conducted background checks on pharmacists, interns, and technicians/tech trainees; during FY2013, the agency opened 402 complaints due to the criminal history information provided on the quarterly reports (as compared to FY2012 when TSBP received 266 such reports – a 51% increase).

Considering (B) and (C) together, the agency received 1,009 reports in FY2013, as compared to FY2012 when the agency received 797 reports (27% increase).

During FY2013 (on September 18, 2013), the Department of Public Safety (DPS) conducted an on-site audit of the agency's compliance with the policies and procedures regarding the use of the DPS On-Line Criminal Justice System, including credentialing and training requirements. TSBP successfully passed this audit.

5. **To provide technical assistance, maintain liaison, and coordinate joint investigations of pharmacists, interns, pharmacy technicians, and pharmacies, in line with the "lead agency approach," with federal, state, and local law enforcement agencies, including health regulatory or administrative agencies, throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** TSBP continued to provide assistance to other agencies, when requested, throughout FY2013. TSBP Field Investigators maintained liaison with law enforcement agencies across the State, totaling over 1,055 contacts with 266 agencies. In-house investigative staff made hundreds of contacts with courts and law enforcement agencies both in Texas and out of state while conducting criminal background checks.



## ENFORCEMENT DIVISION

6. **To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2013.**

**Status:** ACCOMPLISHED

**Comment:** Almost all of the disciplinary orders entered in FY2013 required some type of monitoring by Division staff (i.e., 588 orders or 86% of the 683 disciplinary orders that TSBP entered during FY2013 required some type of monitoring). Monitoring included the following types of actions/activities:

- A. Licensure documents – Division staff monitored the receipt of licensure documents that were required to be submitted to TSBP (e.g., wall certificate of a revoked pharmacist license) and returned these documents as required (e.g., upon reinstatement of the license or completion of the suspension period).
- B. Fines & Fees – Division staff, in conjunction with Accounting staff, ensured that Administrative Penalties (fines) and probation fees were paid.
- C. Reinstatement – Division staff monitored the status of reinstatement applicants [e.g., whether applicant completed Law Exam, Internship, and required CE within the required time period; reviewing reports from supervising pharmacist(s)].
- D. Rehabilitation Orders – These types of Orders are extremely labor-intensive, including monitoring of random drug screens and the review/evaluation of approximately 12 reports per year per Order [reports from probationer, supervising pharmacist(s), and mental health professional(s)].
- E. Other – Division staff monitored the submission of other documents (e.g., required continuing education and policy/procedures manuals; quarterly reports from a consulting/auditing pharmacist on a pharmacy's operation).

In addition to the in-house monitoring described above, Compliance Officers conducted inspections of pharmacies for the purpose of monitoring compliance with the terms of the Orders, particularly individuals/facilities who were revoked, suspended, or subject to a probated suspension (see Ongoing Objective #2).

The following charts indicate the types of Orders entered in FY2013, which required the Division to monitor the licensee's compliance with the Order, in some manner:

**ENFORCEMENT DIVISION**

<b>Total Number of Orders Entered by TSBP That Required Monitoring on Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY13)</b>		
	<b>FY13</b>	<b>% of FY13</b>
Total Number of Orders on Licensees Requiring Monitoring	324	47%
Total Number of Orders on Technicians Requiring Monitoring	264	39%
Total Number of Orders Requiring Monitoring	588	86%
Total Number of Orders Not Requiring Monitoring	95	14%
Total Number of Orders Entered by TSBP in FY13	683	100%

<b>Types of TSBP Disciplinary Orders Entered on Licensees (Pharmacists and Pharmacies) and Interns That Required Monitoring (FY11-FY13)</b>						
<b>Sanction</b>	<b>FY11 Orders</b>	<b>FY12 Orders</b>	<b>FY13 Orders</b>	<b>% of FY13</b>	<b>3-Yr. Avg.</b>	<b>% of 3-Yr. Avg.</b>
Revoke / Retire	14	18	27	7%	20	5%
Suspension	36	34	25	7%	32	9%
Restricted	3	6	5	1%	5	1%
Rehabilitation Orders*	25	19	28	8%	24	7%
Reinstatement	3	3	0	0%	2	<1%
Fines or Probation Fees Only	94	110	102	28%	102	28%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	48	53	39	11%	47	13%
Continuous Quality Improvement Program, Self Assessments, Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	89	107	96	26%	97	27%
Public Orders Requiring Drug Screens	2	3	2	<1%	2	<1%
<b>TOTAL NUMBER OF ORDERS ON LICENSEES REQUIRING MONITORING</b>	<b>314</b>	<b>353</b>	<b>324</b>	<b>89%</b>	<b>330</b>	<b>91%</b>
<b>TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING</b>	<b>28</b>	<b>33</b>	<b>39</b>	<b>11%</b>	<b>33</b>	<b>9%</b>
<b>TOTAL ORDERS</b>	<b>342</b>	<b>386</b>	<b>363</b>	<b>100%</b>	<b>364</b>	<b>100%</b>

\* Rehabilitation Orders which are not included in the following categories: Revocation, Restriction, Reinstatement, and Suspension.

**ENFORCEMENT DIVISION**

<b>Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY11 – FY13)</b>						
<b>Sanction</b>	<b>FY11 Orders</b>	<b>FY12 Orders</b>	<b>FY13 Orders</b>	<b>% of FY13</b>	<b>3-Year Average</b>	<b>% of 3-Year Average</b>
Revoke	83	90	78	24%	84	23%
Suspension	26	40	30	9%	32	9%
Restriction	0	0	0	N/A	0	N/A
Fines Only	140	163	113	35%	139	38%
Other *	42	50	43	13%	45	12%
TOTAL NUMBER OF ORDERS ON TECHNICIANS REQUIRING MONITORING	291	343	264	83%	299	82%
TOTAL NUMBER OF ORDERS ON TECHNICIANS NOT REQUIRING MONITORING	73	63	56	18%	64	18%
TOTAL NUMBER OF ORDERS ON TECHNICIANS	364	406	320	100%	363	100%

\* Orders not in other categories (e.g., probation with conditions; probation with conditions and fines; report required from Mental Health Professional)

Disciplinary Orders that TSBP enters on Technicians and Technician Trainees contain language that will suspend a registration for non-compliance of conditions, and ultimately revoke a registration for continued non-compliance. During FY2013, TSBP imposed 111 suspensions due to non-compliance for condition(s), and 106 revocations due to non-compliance.

## ENFORCEMENT DIVISION

During FY2013, TSBP entered 74 confidential disciplinary Orders (69 orders were entered on pharmacists, 2 orders on student interns, and 3 orders were entered on applicants pharmacist/Interns). These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below:

<b>Confidential Disciplinary Orders On Pharmacists and Interns Entered by TSBP (FY11 – FY13)</b>						
Nature of Violation	FY11	FY12	FY13	% of FY13	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	10	14	23	31%	16	26%
Non-Compliance with PRN	0	0	1	1%	0	N/A
Action by Other Boards	1	2	2	3%	2	3%
Audit Shortages	0	0	0	N/A	N/A	N/A
Alcohol-Related Conviction	6	4	3	4%	4	6%
Theft of Prescription Drugs	10	5	7	9%	7	11%
Created Fraudulent Rx or Obtained C/S by Fraud	2	0	0	N/A	1	2%
Convictions	0	1	2	3%	1	2%
Deferred Adjudication	6	2	2	3%	3	5%
Illegal Possession of Controlled Substances	3	0	0	N/A	1	2%
Unauthorized Refills of Controlled Substances	0	3	1	1%	1	2%
Probable Cause/Dependency	3	10	8	11%	7	11%
Mental Impairment	0	0	2	3%	1	2%
Request for Modification of Previously Entered ABO	6	12	12	16%	10	16%
Request for Retirement or Revocation	4	5	11	15%	7	11%
Request for Reinstatement	2	1	0	N/A	1	2%
<b>TOTAL</b>	<b>53</b>	<b>59</b>	<b>74</b>	<b>100%</b>	<b>62</b>	<b>100%</b>

Of the 74 confidential *pharmacist/intern* Orders entered in FY2013, there were 31 Orders resulting in an impaired/recovering pharmacist or intern being added to the number who were being monitored at the end of FY2013, as reflected in the chart below. However, 37 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of license, license expired, or application withdrawn subsequent to entry of order. Accordingly, as of August 31, 2013, a total of 129 impaired/recovering pharmacists or interns were being monitored by TSBP. The number of individuals being monitored at year-end, as compared to the year-end of previous fiscal years, is depicted in the following chart:

<b>Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY09 – FY13)</b>			
Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored***
FY09	55	24	103
FY10	59	32	118
FY11	52	32	132
FY12	59	29	135
FY13	74	31	129

In addition to monitoring confidential Orders for recovering pharmacists and interns, TSBP monitored 11 pharmacist/interns who are subject to *public* Orders that require random drug screening, as of August 31, 2013.

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- \* All confidential Orders entered by the Board involving an impaired pharmacist or intern (including revocations, modifications, and "second Orders" due to disciplinary action for violation of the terms of previously entered Orders).
- \*\* An Order that resulted in one individual being added to the list of impaired pharmacists to be monitored by the agency.
- \*\*\* Total number of pharmacists being monitored by the agency as of the last day of the reporting period. The number represents the new Orders entered by the agency during the fiscal year, minus the number of deletions made during reporting period (e.g., as a result of death, early termination of probation through the entry of an Order, and/or successful completion of probation).

During FY2013, TSBP entered 57 Orders on Technicians or Techs-in-Training (TNT) who are subject to probation periods with random drug screening. Of the 57 Orders, there were 51 Orders resulting in a Tech or TNT being added to the number who were being monitored at the end of FY2013, as reflected in the chart below. However, 68 technicians/tech-trainees were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of the registration, registration expired, or application denied subsequent to entry of the Order. Accordingly, as of August 31, 2013, a total of 47 technicians/tech-trainees were being monitored by TSBP, as depicted in the chart below:

<b>Technicians / Technicians-in-Training Monitored (with probation under conditions, including random drug screens) by Enforcement Division (FY2012 – FY2013)</b>			
<b>Fiscal Year</b>	<b>Total Orders Added</b>	<b>Total Orders Deleted</b>	<b>Total Being Monitored</b>
FY2012	51	67	64
FY2013	51	68	47

- \* Beginning FY2011, the Enforcement Division began tracking technicians and technician-trainees who were subject of a disciplinary order that imposed a probation period with drug screens.

**7. To provide verbal and written information to Board staff and customers as needed or required throughout FY2013, to include providing technical assistance to other Divisions and responding to surveys and questionnaires.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

**A. COMPLIANCE INSPECTIONS**

Compliance Field Staff provided information during compliance inspections. The Division conducted 1,698 inspections in FY2013 (see Ongoing Objective #2).

**ENFORCEMENT DIVISION**

**B. TELEPHONE CALLS**

Division staff provided technical assistance and answered questions regarding laws and rules governing the practice of pharmacy from approximately 21,323 callers who were routed through the Compliance Queue telephone line.

<b>Number of Telephone Calls Handled via Compliance Queue (FY09 – FY13)</b>		<b>% Change</b>
FY09	15,466	+ 08%
FY10	18,794	+ 22%
FY11	23,095	+ 23%
FY12	25,822	+ 12%
FY13	21,323	- 17%

**C. COMPLAINT FORMS**

During FY2013, TSBP mailed 491 complaint forms to individuals who requested a complaint form. As indicated in the chart below, 284 complaint forms (58% of total) were mailed to individuals who had requested a form by calling the HPC toll-free complaint hotline and 207 complaint forms (42% of total) were mailed to individuals who called the TSBP voice mail complaint line. The number of requests for complaint forms during the past five fiscal years is depicted in the following chart:

<b>Complaint Forms Mailed to Potential Complainants (FY09 – FY13)</b>						
<b>Fiscal Year</b>	<b>Requests for Complaint Forms via HPC 800#</b>	<b>% Change</b>	<b>Requests for Complaint Forms via TSBP Voice Mail</b>	<b>% Change</b>	<b>Total Request</b>	<b>% Change</b>
FY09	304	-24%	403	-1%	707	-12%
FY10	265	-13%	328	-19%	593	-16%
FY11	260	-2%	283	-14%	543	-8%
FY12	213	-18%	289	2%	502	-8%
FY13	284	33%	207	-28%	491	-2%

**D. CUSTOMER SERVICE SURVEYS**

During FY2013, Division staff mailed 456 customer service surveys to TSBP customers.

**E. WRITTEN INFORMATION**

During FY2013, Division staff responded 770 inquiries through Rx Law (a mechanism to provide written responses by e-mail to on-line inquiries received via the TSBP website).

**ENFORCEMENT DIVISION**

F. PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS) – regarding Pharmacy Laws/Rules (unless otherwise noted)

<b>DATE</b>	<b>PRESENTATIONS Name of Association/Presentation and Location of Meeting</b>	<b>STAFF PERSON</b>	<b>ATTENDAN CE (Approx.)</b>
10/09/12	Drug Diversion Presentation for TNT Class w/DPS - Lamar Institute of Technology	Field Investigator JP	25
10/20/12	Fall Preceptor's Conference Texas Southern University - Houston	Iona Grant	102
10/22/12	Presentation to Health Professionals Regarding Class F Pharmacy - Houston	Iona Grant	30
11/13/12	Sterile Compounding Failures and Catastrophes University of Texas Austin - Austin	Paul Holder	35
11/17/12	Presentation on Preventing Drug Abuse w/DEA – El Paso, TX	Field Investigator SG	30
1/18/13	Presentation with Paul Holder University of Houston College of Pharmacy – Houston	Iona Grant	100
1/22/13	Lake Houston Pharmacy Association – Humble	Iona Grant	52
02/19/12	Presentation on Drug Diversion – National Crime Bureau of North Texas	Field Investigator RW	50
2/22/13	TSBP Compliance, Investigations, and Compounding University of Texas at Austin – Austin	Paul Holder	122
4/6/13	Spring Preceptor's Conference Texas Southern University – Houston	Iona Grant	70
4/15/13	TSBP Law Update – Pharmacy Technician Program Austin Community College Eastview Campus – Austin	Paul Holder	40
07/08/13	Presentation on Drug Diversion for Walgreens Pharmacy Interns - Houston	Field Investigator SC	12
		<b>Total</b>	<b>668</b>

G. ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director assisted in the development of the proposed Goals and Objectives for FY2014, which were presented to/approved by the Board at its meeting held in August 2013;
- (2) At all Board meetings held in FY2013, Division Director made presentations regarding the number of acting/pending complaints and the number of dismissed complaints, and Assistant Division Director made a report regarding the Peer Assistance Performance Measures;
- (3) Division Director assisted in the review/edit of the drafts of minutes of four Board meetings;
- (4) Division Director assisted in the review of drafted rules prior to presentation of the proposals to the Board Members;
- (5) Division Director assisted Executive Director prepare a response to the U.S. House of Representatives regarding the agency's regulation of pharmacies that compound sterile preparations;

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- (6) In the absence or at the request of the Executive Director, Division Director responded to inquiries from the media, including the Corpus Christi Caller Times; CBS; and KXAN (on-camera interview).

### H. TECHNICAL ASSISTANCE TO BOARD STAFF

#### (1) Legal Division

- (a) Disciplinary Proceedings – Division staff assisted Legal staff with pharmacy practice-related questions relating to disciplinary cases;
- (b) Informal Conferences involving pharmacists, pharmacies, and pharmacy technicians – Division staff attended numerous conferences and when applicable, conducted interviews with licensees and registrants to explain the terms and conditions of proposed disciplinary orders;
- (c) Formal Hearings – Division Director testified in one hearing conducted by the State Office of Administrative Hearings on November 12, 2012; and Division Director testified in an expunction hearing on April 8, 2013, in Hays County Court; and
- (d) Orientation of New Employees – Division staff conducted orientation sessions with five new Legal Division employees (three attorneys and two legal assistants).

#### (2) Division of Professional Services

- (a) *TSBP Newsletter* – Division staff assisted with each issue of the Newsletter (e.g., wrote articles such as Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board);
- (b) Open Records Requests – Division Director provided assistance when needed; and
- (c) Orientation of New Employee – Division staff conducted orientation sessions with Lauren Ivey, Administrative Assistant.



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- (3) Administrative Services and Licensing Division
  - (a) Division Director assisted with the preparation of the agency’s Internal Risk Assessment Report;
  - (b) Division Director assisted with updating the agency’s record retention schedule and the Employee Handbook;
  - (c) Orientation of New Employee – Division staff conducted orientation sessions with David Hardy, Purchaser;
  - (c) Division staff continued to answer thousands of telephone calls received via the Compliance Queue line regarding the license application process, particularly calls technician applicants; and
  - (d) Division staff assisted in the review of applications for a Class B or D Pharmacy license, as indicated in the chart below:

<b>Activity</b>	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>3-Year Average</b>
New Class D (Clinic) Pharmacy Applications	45	17	32	31
New Class B (Nuclear) Pharmacy Applications	1	2	0	1
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	53	67	62	61
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	27	31	11	23
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	16	14	4	11
Standard Class D Formularies Reviewed	12	10	28	17

I. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division staff worked with the Consumer Product Safety Commission to check for non-compliance issues during TSBP inspections;
- (2) Division staff assisted the National Association of Boards of Pharmacy (NABP) Inspectors on behalf of the Iowa Board of Pharmacy to inspect several pharmacies located in Texas to determine the pharmacy’s compliance with Iowa laws/rules;
- (3) Division staff accompanied Federal Food and Drug Administration investigators as they conducted inspections of several compounding pharmacies in Texas;

## ENFORCEMENT DIVISION

- (4) Division Director worked with an Assistant U.S. Attorney in Dallas in preparing for trial on a case involving non-therapeutic dispensing of controlled substances;
- (5) Division Director met with TSBP Legal Counsel and representatives from the Attorney General Offices (OAG) with regard to the implementation of H.B. 300 passed by the 82<sup>nd</sup> Texas Legislature which required the OAG to submit an annual report to the Legislature on disciplinary actions taken by various health boards on confidentiality violations (e.g., unauthorized release of medical records);
- (6) Division Director provided information to NABP to assist with their efforts to collect data regarding compounding pharmacies;
- (7) In conjunction with the Executive Director and Legal Counsel, Division Director met with representatives of the Texas Department of Health to discuss policies and procedures relating to pharmacies that compound sterile preparations (January 7, 2013); and
- (8) Division Director assisted employees of the Texas Board of Nursing and the Texas Medical Board.

In addition, see Ongoing Objective #4.

**8. In cooperation with the Executive Director and other Divisions, to provide internship experience to student pharmacist-interns upon requests from the Texas colleges of pharmacy, throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** During FY2013, Assistant Division Director served as a preceptor to five students from three different Colleges/Schools of Pharmacy, as listed below:

**FY2012 – 2013**

- August 12, 2012 (FY2012) – September 21, 2012 (FY2013)
  - Brandon Arthur Lerma – The University of Texas at Austin

**FY2013**

- September 24, 2012 – November 2, 2012
  - Kathryn Nagyvary – The University of Texas at Austin
- February 18, 2013 – March 29, 2013
  - Garrett Goode – Texas A&M University
- April 1, 2013 – May 10, 2013
  - Jacqueline Waters – The University of Texas at Austin
- May 20, 2013 – June 28, 2013
  - Natalie Luu – Texas Tech University

## ENFORCEMENT DIVISION

**9. To serve as liaison for the Board to the Professional Recovery Network (PRN) of the Texas Pharmacy Association and to assist in monitoring non-financial contractual obligations of PRN throughout FY2012.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Board Member Ben Fry, R.Ph., served as an ex-officio member of the TX-PRN State Committee throughout FY2013;
- B. Throughout FY2013, Division staff reviewed quarterly activity reports submitted to TSBP by TX-PRN Director; the TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2013;
- C. TSBP requested an independent audit be conducted on the data provided to TSBP (financial data and performance measure data). This audit was completed on October 10, 2012, and the results of the audit were reported to the Board at its meeting held on November 6, 2012;
- D. Division staff attended one TX-PRN State Advisory Committee meeting held on October 20, 2012; and
- E. Throughout FY2013, Enforcement Program Specialist Janelle Dooley worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

**10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. HPC Annual Report – Division Director submitted agency Enforcement performance data to be incorporated in the HPC Annual Report.
- B. HPC Toll-Free Complaint Hotline – HPC member agencies are billed for hotline calls received by the respective agency. When complainants call the hotline, they may leave a message advising the agency of the complainant's name, address, and telephone number, or they may "zero out" and speak to an HPC staff member for clarification of procedures. During FY2013, TSBP mailed 491 complaint forms to individuals requesting forms on the HPC complaint hotline.

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11. To manage employees under the supervision of the Division throughout FY2013, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.

**Status:** ACCOMPLISHED

**Comment:** This objective was accomplished through the following activities:

A. Staff Development – The following activities are applicable:

- Division staff attended the quarterly General All-Staff Meetings which were held on the following dates:  
  
December 5, 2012  
which included EEO training  
  
February 26, 2013  
which included EAP training (“Staying Motivated at Work”)  
  
June 25, 2013  
  
August 27, 2013  
which included staff training (“Active Listening”)
- Assistant Director of Enforcement conducted reviews of newly adopted rules with Division staff who answer questions regarding the laws/rules governing the practice of pharmacy (e.g., Compliance Field Staff and Division employees who are tasked with answering calls on the Compliance Queue Line). These Rule Reviews were also open to all technicians who work for TSBP as a means to obtain their required Continuing Education hours in pharmacy law. These Rule Reviews were held on the dates listed below:  
  
December 6, 2012  
February 27, 2013  
August 27, 2013
- Division Team Leaders attended and participated in meetings for Division team leaders, as well as meetings with team leaders from other Divisions.

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- Assistant Division Director and Chief of Compliance held several training sessions with members of the Division staff who answer calls on the Compliance Queue Line. One of these sessions were held in conjunction with the Division Director of Administrative Services and Licensing and other members of the Licensing Division, so that Enforcement Division staff would be better able to answer questions regarding the licensure application process, particularly for pharmacy technicians and pharmacy technician trainees.
  - Various Division staff attended professional development seminars (such as Webinars and the annual meetings of the Texas Pharmacy Association and the Texas Society of Health System Pharmacists). Division Director attended the annual meeting of the National Association Boards of Pharmacy in Saint Louis, Missouri (May 18-21, 2013).
- B. Performance Evaluations – Formal performance reviews were conducted for all Division employees in FY2013, with the exception of new hires in February 2013 and April 2013.
- C. Other Activities – The Division began FY2013 with one vacancy. However, the Division experienced 16 staffing changes, as a result of the following:
- 5 losses due to resignations;
  - 1 loss due to a transfer of one FTE to the Licensing Division;
  - 1 new position (Field Investigator) due to additional funding appropriated by the 82<sup>nd</sup> Texas Legislature;
  - 3 internal promotions within the Division; and
  - 1 lateral transfer within the Division.

These staffing changes (which are described below) resulted in 6 new hires.

### SUMMARY:

Resignations (x 5): Ethridge; Kanode; Porterfield; Gomez; Holden

Promotions (x 3): Burt; Cruthers; Bishop

Internal Transfer (x 1): Racca

New Hires (x 6): RH; Hirn; Wilson; Bishop; Gaskill; Gonzales

September 2012-

Senior Compliance Officer Mike Ethridge, R.Ph.,  
Retired after 20 years of service to TSBP, the citizens of  
Texas, and the pharmacists of San Antonio and South  
Texas.

## ENFORCEMENT DIVISION

### October 2012

- (1) R.H. was hired to fill the new Field Investigator (position authorized by the 83<sup>rd</sup> Texas Legislature).
- (2) Elizabeth Kanode resigned her position as an Enforcement Technician (Administrative Assistant).

### November 2012

- (1) Amy Burt was promoted from Enforcement Technician (Administrative Assistant) to the Enforcement Officer position that was vacated by Cathy Shannon in August 2012 (internal promotion within the Enforcement Division for Ms. Burt).
- (2) Barbara Racca was selected to fill a new position as a Licensing Specialist (internal transfer from the Enforcement Division to the Licensing Division).
- (3) Jessica Hirn was hired as an Enforcement Officer to fill the position vacated by Barbara Racca.
- (4) Annette Porterfield resigned her position as Enforcement Specialist.

### December 2012

Lindsey Cruthers was promoted to fill the position that was vacated by Ms. Porterfield (internal promotion within the Enforcement Division for Ms. Cruthers).

### January 2013

Amy Burt was selected to fill the Enforcement Specialist position that was vacated by Lindsey Cruthers.

### February 2013

- (1) Amber Wilson was hired as an Enforcement Technician (Administrative Assistant) to fill the position that was vacated by Elizabeth Kanode in October 2012.
- (2) Christina Bishop was hired as an Enforcement Technician (Administrative Assistant) to fill the position that was vacated by Amy Burt following her promotion in November 2012.

## ENFORCEMENT DIVISION

April 2013

(1) Sharon Gaskill, R.Ph., was hired as the Compliance Officer for the San Antonio and South Texas Region. She filled the position that was vacated by Mike Ethridge, R. Ph., when he retired in September 2012.

(2) David Gomez resigned his position as Enforcement Specialist.

May 2013

Marianne Holden resigned her position as an Enforcement Technician (Administrative Assistant).

July 2013

Christina Bishop was promoted from Enforcement Technician (Administrative Assistant) to the Enforcement Specialist position that was vacated by David Gomez.

August 2013

Lori Gonzales was hired as an Enforcement Officer to fill the position that was vacated by Amy Burt following her selection as Enforcement Specialist in January 2013.

As a result of the staffing changes described above, Division staff accomplished the following activities: reviewing applications; conducting interviews; and conducting in-depth orientations.

Division Director also revised/updated 13 job descriptions for the following positions: Chief of Investigations; Compliance Officer for Bexar County; Enforcement Program Administrator; Enforcement Program Specialist; Enforcement Program Officer; Compliance Specialist; Enforcement Officer (two positions); Enforcement Specialist (three positions); and Administrative Assistant (two positions). In addition, Division Director created job descriptions for two new positions (Compliance Officer for Houston and Compliance Officer for Dallas).

- 12. To maintain Division records throughout FY2013, including the following: to image records and destroy records in accordance with the agency's record retention plan; to review the Division's *Policies and Procedures Manual* on an on-going basis and update as needed, and to submit any substantive revisions to the Executive Director for approval.**

**Status: ACCOMPLISHED**

**Comment:** The following activities relate to this objective:

A. Records Management (Record Retention)

During FY2013, Division staff destroyed 61.69 cubic feet of records, in accordance with the TSBP record retention schedule. The quantity of Division records destroyed in the past five years is depicted in the chart below:

**ENFORCEMENT DIVISION**

<b>Fiscal Year (FY09 – FY13)</b>	<b># of Cubic Feet of Records Destroyed</b>	<b>% Change</b>
FY2009	99.19	n/a
FY2010	252.84	+155%
FY2011	183.38	-27%
FY2012	137.82	-25%
FY2013	61.69	-55%

**B. Records Management (Imaging)**

Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 2,897 complaint files were scanned during FY2013, which represented a 35% increase over FY2012, when approximately 2,150 complaint files were imaged.

**C. Enforcement Division Policies/Procedures**

With the assistance of the Director of Professional Services, Enforcement Division Director revised the TSBP Complaint Form and the related consumer information regarding the agency’s complaint process, to include information that the agency would no longer accept anonymous complaints (in accordance with the requirements of S.B. 404 passed by the 83<sup>rd</sup> Texas Legislature). Division Director also updated the Notice of Inspection form and data entry procedures regarding purposes of inspection. Division Director and Assistant Division Director developed a new region map based upon 12 inspectors, following the authorization and funding by the 83<sup>rd</sup> Texas Legislature of 5 additional inspectors. Chief of Investigations updated the policy and procedure manual relating to weapons carried by Field Investigators who are commissioned peace officers.

- 13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** All Division staff made recommendations to improve the efficiency and effectiveness of agency operations. Significant recommendations included the following:

**A. Recommendations regarding the Texas Pharmacy Act and TSBP Rules:**

- (1) Division Director recommended that TSBP Rule 295.15(c)(2) relating to immunizations be amended to clarify that patients must be counseled on the immunizations that they are receiving.



## ENFORCEMENT DIVISION

- (2) While serving on the TSBP Task Force on Compounding Pharmacies, Division Director and Assistant Director made numerous recommendations to improve and enhance Rule 291.33, including additional training of personnel who compound sterile preparations or supervise the compounding of sterile preparations, documentation of cleaning processes, use of sterile gloves and sterile alcohol, clarification of the requirement to have a sink in the anteroom, and requiring pharmacies who compound sterile preparations to have a different class of pharmacy license.

### B Recommendations regarding Agency Operations:

- (1) Division Director recommended that all confidential Agreed Board Orders involving impaired/recovering pharmacists require the pharmacist to submit to a fingerprint process, so that in the event the pharmacist is arrested for a drug or alcohol-related offense, TSBP will be immediately notified.
- (2) Division Director recommended that an application form be used by pharmacists who have been the subject of disciplinary orders and want to petition to serve as a preceptor. This recommendation was approved by the Executive Director. Division staff developed and implemented the form which requires the pharmacist to address all the factors listed in the TSBP Rule relating to the approval of preceptor petitions.
- (3) Division staff made numerous recommendations to improve, correct, and/or enhance the information provided on the TSBP webpage.
- (4) Division staff made numerous recommendations to internal forms and procedures to improve day-to-day operations.

**14. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2012 Annual Report* and submit to the Executive Director by the due date.**

**Status:** ACCOMPLISHED

**Comment:** Although the Division's first draft of the *FY2012 Annual Report* was not submitted to the Executive Director by the due date that was initially scheduled, the report was submitted by the approved extension to the due date. Drafts of all Divisions were compiled into one Annual Report and subsequently presented to and approved by the Board at its meeting in August 2013.

**FY2013 SIGNIFICANT ACCOMPLISHMENTS**

1. Division staff accomplished 15 of the Division's 15 objectives for FY2013.
2. During FY2013, the agency continued to handle a large number of ongoing disciplinary issues for pharmacy technicians. The Division initiated 294 disciplinary actions by mailing a Preliminary Notice Letter and entered 320 orders against pharmacy technicians and pharmacy technician trainees during the fiscal year. During the fiscal year, 99 applicants for registration as a pharmacy technician or pharmacy technician trainee were subject to mandatory withdrawal, indicating that although the Division initiated disciplinary action, the applicant did not complete the process.
3. Approximately 99% of the disciplinary cases against pharmacists and pharmacies and 100% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and agency expenditures.
4. The Division resolved 24 respondent cases that were filed for administrative hearings at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys or through the SOAH Mediation process. Six respondent cases were resolved through mediation. These resolutions saved the agency considerable resources both in time and expenditures.
5. Administrative hearings were conducted against four respondents at SOAH. These hearings involved preparing motions for summary judgment and numerous discovery documents (including interrogatories and requests for admission), preparing for trial and for witness examination, and conducting the hearings. Following the hearings, exceptions were filed and drafts of proposed orders were prepared. The extensive preparation for the hearings and the presentations to the Board required a considerable amount of time, and the Division was able to maintain a fairly consistent number of cases resolved.
6. In order to effectively deal with continuing threat to the public health and safety, the Legal Division continued to evaluate cases, and if such a threat could be established, a panel was convened to hear the cases for potential temporary suspension. Petitions for Temporary Suspension were filed, and Temporary Suspension Hearings were conducted before a Board panel against seven respondents in FY2013. Six respondents were temporarily suspended, and one respondent's petitions were denied.

**LEGAL DIVISION**

7. Statistics for disciplinary actions entered in FY2013 are as follows:

**PHARMACISTS/PHARMACIES**

<b>FISCAL YEAR</b>	<b>NUMBER OF BOARD ORDERS (BOs)</b>	<b>NUMBER OF DEFAULT ORDERS ENTERED BY BOARD</b>	<b>NUMBER OF AGREED Board of Pharmacy ORDERS (ABOs)</b>	<b>NUMBER OF DISCIPLINARY ORDERS (BOs &amp; ABOs)</b>	<b>% CHANGE IN DISCIPLINARY ORDERS</b>	<b>% ABOs OR DEFAULT OF TOTAL ORDERS</b>
FY09	7	10	317	334	32%	98%
FY10	8	2	334	344	3%	98%
FY11	15	2	325	342	-<1%	96%
FY12	5	3	378	386	13%	99%
FY13	2	3	358	363	1%	99%
<b>TOTAL</b>	<b>37</b>	<b>20</b>	<b>1712</b>	<b>1769</b>	<b>1%</b>	<b>98%</b>

**PHARMACY TECHNICIANS/PHARMACY TECHNICIAN TRAINEES**

<b>FISCAL YEAR</b>	<b>NUMBER OF BOARD ORDERS (BOs)</b>	<b>NUMBER OF DEFAULT BOARD ORDERS (BOs)</b>	<b>NUMBER OF AGREED BOARD ORDERS (ABOs)</b>	<b>NUMBER OF DISCIPLINARY ORDERS (BOs &amp; ABOs)</b>	<b>% INCREASE IN DISCIPLINARY ORDERS</b>	<b>% ABOs OR DEFAULT OF TOTAL ORDERS</b>
FY09	0	74	329	403	30%	100%
FY10	1	108	355	464	15%	100%
FY11	2	78	284	364	-22%	99%
FY12	1	70	335	406	11%	100%
FY13	0	70	250	320	-7%	100%
<b>TOTAL</b>	<b>4</b>	<b>400</b>	<b>1053</b>	<b>1957</b>	<b>5%</b>	<b>99%</b>

8. Division staff significantly increased transparency of public information by making accessible the information about disciplinary actions taken against licensees and registrants and posting the scanned version of prior actions on the agency's website.

## LEGAL DIVISION

### **FY2013 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS**

The cases against pharmacy technicians and pharmacy technician trainees are more complicated and time-consuming as the cases do not merely involve adjudicated criminal offenses, but also involve investigations by TSBP of thefts at pharmacies, which leads to a longer resolution time in the Legal Division due to the longer amount of time to draft and prepare the cases.

LEGAL DIVISION

FY2013 ANNUAL REPORT

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**GOAL**

To prosecute violations of the laws and rules related to the practice of pharmacy. To provide adjudicative information to agency customers. To provide legal services and guidance to the Board and the agency staff relating to the regulation of the practice of pharmacy and the administration of the agency.

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**Objectives (New)**

**To assist the Executive Director, in cooperation with other Divisions, preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, throughout the 83rd Texas Legislative Session.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

General Counsel reviewed and analyzed filed legislation that had a potential impact on pharmacy practice and on agency operations. At the request of and in the absence of the Executive Director, General Counsel attended legislative hearings regarding agency budget and operation and any pharmacy practice-related issues.

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**Objectives (Ongoing)**

**1. To coordinate and monitor throughout FY2013 the receipt, assignment, and resolution of all cases accepted by the Division.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Division staff met approximately twice a month to discuss the status of pending cases, assess workload allocation, and determine the most effective strategies to complete cases in a timely and efficient manner. The Legal Assistant Team Leader also met with the Legal Assistants on a monthly basis to address common issues and monitor progress.
- B. General Counsel, Legal Program Specialist, and Hearing Coordinator conducted regular monthly meetings to review the status of cases and the statistical data on the completion of cases to ensure efficient processing of disciplinary cases. As a result, the Division often reallocated resources to most effectively process the cases in a timely manner.

**LEGAL DIVISION**

- C. Division staff maintained a database system to track the current status of all cases, thereby increasing efficiency in monitoring cases. In addition, Division staff continued to maintain an electronic log, tracking dates for mailing of Preliminary Notice Letters, scheduling of Informal Conferences, mailing and receiving of Agreed Board Orders, and other due dates previously recorded on paper to enhance accessibility by all Division staff and improve more efficient and immediate information sharing.
- D. TSBP entered a total of 683 disciplinary orders in FY2013, as reflected in the charts below.

Type of Order	Summary Suspensions	SOAH Board Orders	Default Board Orders	ABOs Entered by ED	ABOs Public	ABOs Confidential	Total Number of Orders
Pharmacists and Pharmacies	6	2	3	103	183	66	363
Pharmacy Technicians	0	0	70	161	89	0	320
<b>Total</b>	<b>6</b>	<b>2</b>	<b>73</b>	<b>264</b>	<b>272</b>	<b>66</b>	<b>683</b>

The Division staff prepared for the presentation of Agreed Board Orders and Board Orders for approval at the four regularly scheduled Board meetings throughout the year. The presentation of proposed disciplinary actions to the Board at Board meetings was converted to use the electronic notebooks, which includes presenting a summary chart along with the orders linked to the chart.

Information regarding the disciplinary cases entered in FY2013 is set forth in the following charts:

LEGAL DIVISION

**SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON  
PHARMACISTS, PHARMACIES, INTERNS, AND  
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2013)**

			Pharmacist	Pharmacy	Total
<b>Licenses Removed</b>	<b>27</b>	<b>(7%)</b>			
Revoke			10	10	20
Retire			7	0	7
<b>Suspensions</b>	<b>86</b>	<b>(24%)</b>			
Suspension			8	3	11
Suspension w/Conditions			12	0	12
Suspension w/ Fine			1	0	1
Suspension/Fine/Conditions			3	0	3
Suspension/Probation			3	4	7
Suspension/Probation w/Conditions			30	4	34
Suspension/Probation/Fine			2	7	9
Suspension/Probation/Fine w/Conditions			2	7	9
<b>Restricted</b>	<b>5</b>	<b>(1%)</b>	5	0	5
<b>Other</b>	<b>202</b>	<b>(56%)</b>			
Fine			59	12	71
Fine with Conditions			2	47	49
Fine and Reprimand			1	3	4
Fine, Reprimand with Conditions			12	25	37
Reprimand with Conditions			17	13	30
Reprimand			8	3	11
Require MHP Evaluation			0	0	0
<b>Issuance License/Regist.</b>	<b>26</b>	<b>(7%)</b>			
Grant with Suspension			0	0	0
Grant with Restrictions			0	0	0
Grant with Probation			1	1	2
Grant with Probation and Fine			0	0	0
Grant with Probation/Fine/Conditions			0	0	0
Grant with Probation and Conditions			5	0	5
Grant with Reprimand and Fine			0	0	0
Grant with Fine			4	5	9
Grant with Reprimand			9	1	10
<b>Reinstatements</b>	<b>1</b>	<b>(&lt;1%)</b>			
Grant			0	0	0
Grant with Probation/Conditions			0	0	0
Deny			1	0	1
<b>Modifications</b>	<b>16</b>	<b>(4%)</b>			
Grant			13	3	16
Deny			0	0	0
<b>TOTAL FY13:</b>	<b>363</b>	<b>(100%)</b>	<b>215</b>	<b>148</b>	<b>363</b>

FY13 Orders Entered Against Pharmacist Licenses	215	59%
FY13 Orders Entered Against Pharmacy Licenses	148	41%
FY13 Total Disciplinary Orders on Pharmacist/Pharmacy	363	100%

LEGAL DIVISION

**DISCIPLINARY ORDERS ON PHARMACISTS, INTERNS, AND  
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2013)  
NATURE OF VIOLATIONS\***

	RPh	Phcy	Total	Total %
<b>Diversions</b>	<b>11</b>	<b>2</b>	<b>13</b>	<b>4%</b>
Illegal Delivery	0	0	0	
Illegal Possession of Rx Drugs	0	0	0	
Unauthorized Dispensing	2	1	3	
Theft	7	0	7	
Obtained C/S by Fraud	0	0	0	
No Valid Dr-Pt Relationship (InternetRXs)	1	1	2	
Non-Therapeutic Dispensing	1	0	1	
<b>Convictions/Defer Adj</b>	<b>19</b>	<b>1</b>	<b>20</b>	<b>6%</b>
Felony	4	1	5	
Misdemeanor	3	0	3	
Deferred Adjudication, Felony	1	0	1	
Deferred Adjudication, Misdemeanor	8	0	8	
Alcohol-Related	3	0	3	
<b>Audit Discrepancies</b>	<b>4</b>	<b>12</b>	<b>16</b>	<b>4%</b>
Drug	4	12	16	
Continuing Education	0	0	0	
<b>Practice Deficiencies</b>	<b>45</b>	<b>60</b>	<b>105</b>	<b>29%</b>
Dispensing Errors	24	30	54	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	14	23	37	
No Counsel and/or DRR	7	7	14	
<b>Unprofessional Conduct</b>	<b>98</b>	<b>56</b>	<b>154</b>	<b>42%</b>
Aiding and Abetting	2	4	6	
Allow Tech to Work without an Active Registration	38	37	75	
Falsified Application for Licensure	7	9	16	
Sterile Compounding w/o Proper Training	0	0	0	
Impairment	10	0	10	
Action by Other Boards	14	4	18	
Non-Compliance with Previously Entered Order	25	1	26	
Non-Compliance with PRN Program	1	0	1	
Violation of Board Rules	1	1	2	
<b>Other</b>				
Modification	<b>14</b>	<b>3</b>	<b>17</b>	<b>5%</b>
Reinstatement	<b>1</b>	<b>0</b>	<b>1</b>	<b>&lt;1%</b>
Request for Revocation/Retirement/Restrict	<b>14</b>	<b>9</b>	<b>23</b>	<b>6%</b>
Temporary Suspension Orders	<b>4</b>	<b>2</b>	<b>6</b>	<b>2%</b>
Other	<b>5</b>	<b>3</b>	<b>8</b>	<b>2%</b>
<b>TOTAL FY13:</b>	<b>215</b>	<b>148</b>	<b>363</b>	<b>100%</b>

\* Board Orders/Agreed Board Orders may contain more than one type of violation. However, for purposes of this list, only one type of violation has been identified. The identified violation was selected as the primary violation.



LEGAL DIVISION

**SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON  
PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND  
APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2013)**

		Total	Percent
<b>Licenses Removed</b>		<b>78</b>	<b>(24%)</b>
Revoke	78		
Retire	0		
<b>Suspensions</b>		<b>49</b>	<b>(15%)</b>
Suspension	2		
Suspension, followed by Probation	1		
Suspension w/Conditions	10		
Suspension w/Conditions, followed by Probation	17		
Suspension/Fine	0		
Suspension/Fine w/Conditions, followed by Probation	0		
Suspension/Probation	5		
Suspension/Probation with Conditions	14		
Suspension/Probation/Fine	0		
Suspension/Probation/Fine with Conditions	0		
<b>Restricted</b>	0	<b>0</b>	<b>(N/A)</b>
<b>Other</b>		<b>78</b>	<b>(24%)</b>
Fine	52		
Fine with Conditions	0		
Fine/Reprimand	3		
Fine/Reprimand with Conditions	1		
Reprimand	21		
Reprimand with Conditions	1		
<b>Issuance Registration</b>		<b>113</b>	<b>(35%)</b>
Grant with Suspension	2		
Grant with Suspension/Fine	0		
Grant with Probation	12		
Grant with Probation/Conditions	25		
Grant with Probation/Conditions and Fine	0		
Grant with Probation and Fine	4		
Grant with Fine	26		
Grant with Fine and Reprimand	10		
Grant with Reprimand	34		
Deny	0		
<b>Reinstatements</b>		<b>1</b>	<b>(&lt;1%)</b>
Grant with Suspension, followed by Prob/Cond	0		
Grant with Probation/Conditions	0		
Grant with w/Conditions and Reprimand	1		
<b>Modifications</b>	1	<b>1</b>	<b>(&lt;1%)</b>
<b>TOTAL FY13:</b>		<b>320</b>	<b>(100%)</b>

LEGAL DIVISION

**DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES,  
AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2013)**  
**NATURE OF VIOLATIONS**

		Total	Percent
<b>Diversion</b>		<b>13</b>	<b>(4%)</b>
Theft	13		
Forged Rx	0		
Illegal Delivery	0		
<b>Convictions/Deferred Adjudications</b>		<b>182</b>	<b>(50%)</b>
Felony	15		
with Falsified Application	3		
Misdemeanor	16		
with Falsified Application	9		
Deferred Adjudication/Felony	39		
with Falsified Application	2		
Deferred Adjudication/Misdemeanor	76		
with Falsified Application	9		
Alcohol-Related (e.g., DWI)	13		
with Falsified Application	0		
<b>Chemical Impairment</b>		<b>2</b>	<b>(2%)</b>
Drug or Alcohol Dependency	2		
with Falsified Application	0		
<b>Falsified Applications *</b>		<b>28</b>	<b>(12%)</b>
<b>Other Violations</b>		<b>52</b>	<b>(18%)</b>
Gross Immorality	0		
Non-Compliance w/Previously Entered Order	17		
Performed Tech Duties w/Delinquent Registration	8		
Performed Pharmacist Duties	4		
Performed Tech Duties without Registration	19		
Negligence	4		
<b>Request for Revocation/Retirement</b>		<b>41</b>	<b>(14%)</b>
<b>Reinstatement</b>		<b>1</b>	<b>(&lt;1%)</b>
<b>Modify</b>		<b>1</b>	<b>(&lt;1%)</b>
<b>TOTAL FY13:</b>		<b>320</b>	<b>(100%)</b>

\* Does not include the 23 falsified applications described above.

## LEGAL DIVISION

2. **To review all cases referred to the Division for potential disciplinary action; and if sufficient evidence exists to warrant action, to institute disciplinary proceedings against licensees within an average of 150 days of the date of the receipt of the case, in accordance with priorities established for the Enforcement Division, throughout FY2013.**

**Status:** ACCOMPLISHED

**Comment:** This objective was accomplished through the following activities:

- A. During FY2013, Division staff participated in 21 case and/or complaint review meetings. These meetings were held approximately twice per month with participation by the Executive Director and Legal and Enforcement Division staff.
- B. During FY2013, Division staff received 623 cases and resolved 789 cases, which was 166 more than received during FY2013.
- C. The Division mailed 43 letters to pharmacy technician and technician trainee applicants recommending denial of the application, due to the severity of criminal history. In 17 cases, the applicant requested an informal conference and a Preliminary Notice Letter was initiated. In 26 cases, the applicants were subject to mandatory withdrawal due to the applicant did not completing the process.
- D. Division staff mailed 640 Preliminary Notice Letters in FY2013, in accordance with the priorities established for the Division, which was significantly less than in FY2012, when the Division mailed 918 PNLs. Of these PNLs, 346 PNLs were mailed to pharmacists and pharmacies, and 294 PNLs were mailed to pharmacy technicians and pharmacy technician trainees.
- E. The number of days to mail PNLs after the case review date in FY2013 was 63 days which is a slight decrease from the FY2012 number of 66 days. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 76 days which is a significant decrease from 96 days in FY2012. PNLs to pharmacy technicians were sent in an average of 49 days from receipt of the case, essentially the same as 48 days in FY2012.
- F. Total resolution time for cases in FY2013 was 77 days from receipt of the case in the Legal Division to the disposition of the case in the Legal Division, which is a significant decrease from last year's number of 146 days. Case resolution for pharmacists and pharmacies averaged 90 days and for pharmacy technicians averaged 64 days.
- G. The Division filed petitions to conduct a Temporary Suspension hearing for four cases involving seven pharmacists, pharmacies, and pharmacy technicians in FY2013. Six temporary suspension petitions were granted, and one was denied. Following the temporary suspensions, the cases were settled with disciplinary actions against the licenses.

**LEGAL DIVISION**

- 3. To plan and conduct a minimum of 24 days of informal conference sessions in FY2013 to adjudicate violators of pharmacy laws/rules.**

**Status: ACCOMPLISHED**

**Comment:** During FY2013, the Division prepared for and conducted 31 days of Informal Conferences for 370 licensees/registrants and applicants, as indicated in the following charts. The number of licensees/registrants and applicants significantly decreased in FY2013, from 539 licensees/registrants and applicants in FY2012.

**Informal Conferences for Pharmacies and Pharmacists**

<b>Dates of Informal Conferences</b>	<b># of Days</b>	<b># of Phy/RPh Licensees</b>	<b># of Techs</b>	<b># of Cases</b>	<b># of Licensees Dismissed</b>
September 5-6, 2012	2	16	1	14	3
October 9-11, 2012	3	34	0	24	1
November 28, 2012	.5	6	0	4	1
December 4-6, 2012	2	21	0	18	4
January 8-10, 2013	3	25	1	19	6
January 24, 2013	.5	1	0	1	0
March 5-7, 2013	3	27	0	21	3
April 2-3, 2013	2	17	0	15	6
April 17, 2013	.5	2	0	1	0
April 18, 2013	.5	4	0	2	0
June 5-6, 2013	2	21	2	16	0
July 9-10, 2013	2	19	0	15	1
<b>TOTAL FY2013</b>	<b>21</b>	<b>193</b>	<b>4</b>	<b>150</b>	<b>20</b>

**Informal Conferences for Technicians/Technician Trainees**

<b>Dates of Informal Conferences</b>	<b># of Days</b>	<b># of Cases</b>	<b>Applicants</b>	<b>Registrants</b>	<b>No-shows</b>	<b>Defaults</b>
September 20, 2012	1	24	8	16	9	7
October 18, 2012	1	18	8	10	9	5
November 28, 2012	1	13	2	11	7	7
December 13, 2012	1	13	5	8	10	7
January 24, 2013	1	22	9	13	8	7
February 21, 2013	1	16	6	10	14	9
March 21, 2013	1	14	5	9	7	7
April 18, 2013	1	18	8	10	7	5
June 20, 2013	1	22	8	14	7	7
July 11, 2013	1	13	3	10	5	5
<b>TOTAL FY2013</b>	<b>10</b>	<b>173</b>	<b>62</b>	<b>111</b>	<b>83</b>	<b>66</b>

Division staff used electronic notebooks for all informal conferences, thus allowing the informal conference panel to access the allegations and evidence on computer laptops and reducing copying cost and staff time to prepare the informal conference notebooks. Division staff also prepared this information in advance to allow the Board members additional time to review the cases prior to informal conference.

LEGAL DIVISION

4. **To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2013, and file a complaint with SOAH within an average of 180 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.**

**Status:** ACCOMPLISHED

**Comment:** This objective was accomplished through the following activities:

- A. At the onset of FY2013, eight respondent cases were ongoing following the filing of a complaint at the State Office of Administrative Hearings in FY2012 and pending a resolution. The Division filed formal Complaints at SOAH, within an average of 180 days from the date the case failed to settle with an Agreed Board Order, for 24 additional respondent cases in FY2013.
- B. Twenty-four respondent cases were resolved prior to a full contested administrative hearing being conducted at SOAH. Of these cases, six respondent cases were resolved through the SOAH mediation process. The remaining cases were resolved through negotiations. This resolution was beneficial in saving the agency both considerable time and effort in the alternative of preparing for and presenting a full contested case hearing. However, considerable preparation was required for several of the cases because they were not resolved until shortly before the scheduled hearing date.
- C. Administrative hearings were conducted against 4 respondents in FY2013. Proposals for Decision (PFD) were issued by the Administrative Law Judges against 3 respondents during FY2013. Three respondent cases were pending a hearing at the end of FY2013.
- D. SOAH performed 237.40 hours of work on 23 cases for the TSBP in FY2013, totaling approximately \$10,509.45 in direct hearings expenses and \$29,303.67 in total case expenses. These SOAH hours are significantly increased from the 120.4 hours of work on 18 cases in FY2012.

5. **To research legal issues and provide legal services and advice to the Board and agency staff; to provide legal services to the Enforcement and Administrative Services and Licensing Divisions regarding interpretation of the laws and rules and to the Division of Professional Services in the development of agency rules and publication of newsletters.**

**Status:** ACCOMPLISHED

**Comment:** This objective was accomplished through the following activities:

- A. Legal Research and Advice on Agency Administration
  - (1) General Counsel continued to work to develop procedures for Board member access to case information prior to informal conferences.
  - (2) General Counsel served as Fraud Coordinator for the agency.

## LEGAL DIVISION

- (3) General Counsel participated in meetings regarding Risk Assessment and provided recommendations in the development of the agency's Risk Management plan.
- (4) General Counsel and Division staff provided legal advice and consultation on numerous personnel issues during FY2013, including:
  - (a) assisted with issues in various hiring/disciplinary processes and complaints against agency employees;
  - (b) advised regarding sick leave pool requests;
  - (c) provided legal advice regarding outside employment for agency staff;
  - (d) developed and reviewed performance plans and/or probation;
  - (e) interviewed applicants for new positions;
  - (f) assisted with resolution of complaints against agency employees; and
  - (g) reviewed policies in TSBP Employee Handbook.
- (8) General Counsel served as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
- (9) General Counsel consulted with other Division Directors regarding the evaluation of results of the Survey of Employee Engagement completed by agency staff.
- (10) General Counsel assisted in the review and preparation of minutes of four regularly-scheduled Board meetings.
- (11) General Counsel reviewed the contract proposals and participated in the bid proposal process for:
  - (a) provider of drug sample testing/analysis,
  - (b) peer assistance program,
  - (c) drug screening for Board licensees, and
  - (d) legal research on-line system.
- (12) General Counsel participated in meetings with the State Auditor's Office regarding follow-up audit to the 2008 audit of TSBP's complaint process.

## LEGAL DIVISION

- (13) General Counsel developed a training video for agency employees on confidentiality and privacy of PHI/SPI in compliance with HB 300.
- (14) General Counsel drafted the agency's social media plan/policy.

### B. Technical Assistance to Enforcement Activities

- (1) Division staff researched numerous issues, including the determination of crimes of moral turpitude, various forms of disposition for criminal cases, and applicability of actions taken in other jurisdictions.
- (2) General Counsel attended staff meetings, as requested, to provide legal guidance on inspection and investigative issues.
- (3) Division staff drafted subpoenas and voluntary revocation orders to assist with the investigative work of the TSBP investigators.
- (4) Division staff handled legal questions from all staff regarding a myriad of issues.
- (5) General Counsel reviewed complaint files for pharmacists and pharmacies and provided guidance regarding the identification of violations and the resolution of the cases. In addition, General Counsel reviewed complaint files on pharmacy technicians to determine type of violation and appropriate action, as previously determined by the Board.
- (6) General Counsel and Division staff made presentations at all Board meetings held in FY2013. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following SOAH proceedings.
- (7) General Counsel participated in numerous meetings to discuss appropriate action regarding questions/issues raised by licensees.
- (8) Division staff informed the Enforcement staff of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.
- (9) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of positive drug screens and interfacing with the PRN program.
- (10) Division staff drafted ineligibility letters for pharmacist applicants who did not qualify for licensure under the Texas Pharmacy Act.
- (11) Division staff redacted files to comply with orders of expunction and of non-disclosure regarding criminal offenses.

## LEGAL DIVISION

- (12) Division staff assisted Compliance staff with questions during inspections and regarding follow-up issues.

### C. Legal Services for Professional Services

- (1) General Counsel assisted the Division of Professional Services in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the *Texas Register* for all rules either proposed or adopted during FY2013.
- (2) General Counsel assisted the Division of Professional Services with requests for public information in clarifying requests and requesting assistance from the OAG.
- (3) General Counsel assisted with the continued implementation of the agency's social media presence (e.g., Facebook, Twitter, Mail Chimp).
- (4) General Counsel assisted the Director of Professional Services with the development of on-line and video training.

### D. Legal Services for Licensing

- (1) Division staff assisted with recommendations on eligibility for licensure and registration, verified accuracy of warning letters, and handled cases through the legal process.
- (2) General Counsel reviewed requests for accommodation under the ADA for legal compliance.
- (3) General Counsel was consulted on issues concerning licensing of pharmacists and pharmacies and on application forms.

### E. Other Legal Services regarding Pharmacy Issues

- (1) General Counsel participated in meetings and teleconferences regarding any pending pharmacy issues as required.
- (2) General Counsel and Division staff participated in the review of the question pool for the Multistate Jurisprudence Examination to ensure the validity of the questions in the pool.
- (3) General Counsel participated in teleconference meetings of committees to review requests for pilot projects and assisted with development of rules on related issues.
- (4) General Counsel participated in and provided legal analysis for all task force meetings, including the Compounding Task Force.



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- (5) General Counsel extensively participated in the agency's response to addressing issues with sterile compounding pharmacies in and out of Texas, including recommending and drafting a survey to determine the extent of sterile compounding by current licensed pharmacies and developing legislative and rule changes.

**6. To review and monitor the Texas Register for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2013; to serve as liaison for the Board to the Office of the Attorney General (OAG); to monitor and assist with appeals, injunctions, or civil litigation handled by the OAG against pharmacists or non-pharmacists**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Division staff reviewed new opinions of the Office of the Attorney General and the Texas Ethics Commission for applicability to TSBP and disseminated any relevant material to appropriate agency personnel.
- B. Liaison with the Office of Attorney General
  - (1) Division staff continued to serve as liaison with the OAG throughout FY2013. Ted Ross served as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division.
  - (2) General Counsel consulted with OAG attorney regarding OAG implementation of HB 300 and associated TSBP reporting requirements.
  - (3) General Counsel coordinated with OAG Medicaid Fraud subpoena response in a civil suit against a drug manufacturer.
  - (4) Appeals; Injunctions; Civil Litigation
    - (a) General Counsel coordinated representation regarding appeal of Board Order on an impaired pharmacist suspended in conjunction with an order in another state at the Third Court of Appeals and another out-of-state pharmacist challenging an order to submit to a mental health evaluation at the District Court.
    - (b) Division staff coordinated representation with OAG attorney regarding expunction of criminal matters also relevant to agency disciplinary action.
    - (c) Division staff coordinated with OAG attorney regarding representation on an open records appeal at the Third Court of Appeals, which was decided in favor TSBP.

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(5) Requests for AG Opinions

Division staff drafted requests for open records decisions for filing with the OAG.

(6) General Assistance

General Counsel answered questions from OAG attorneys regarding various pharmacy and/or agency issues.

**7. To assist with open records requests throughout FY2013, in accordance with the procedures set forth in the Texas Public Information Act.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2013. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.
- B. Division staff handled requests for open records decisions for those open records requests that related to confidential information requiring a ruling from the OAG.

**8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2013; to provide legal assistance and maintain liaison with appropriate local, state, and federal prosecutors, legal divisions, and enforcement agencies involved in the investigation or prosecution of Board licensees, in conjunction with the Enforcement Division, throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

A. Surveys/Questionnaires and Other Correspondence

General Counsel and/or Division staff responded to following surveys:

- (1) Annual survey from the State Office of Administrative Hearings; and
- (2) Client survey from the OAG.

B. Technical Assistance to Other Agencies and Organizations

- (1) General Counsel and Division staff attended meetings with the Director of the Professional Recovery Network to discuss the handling of cases involving impaired pharmacists and pharmacy technicians and the development of new procedures to incorporate the change to the DSM 5 criteria.

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- (2) Division staff attended Public Service Career Day at the University of Texas School of Law.
- (3) General Counsel participated in meetings and other communications with the FDA regarding compounding of sterile products.
- (4) General Counsel coordinated with the National Association of Boards of Pharmacy for submission of an amicus brief in the licensing case appealed to the Third Court of Appeals.
- (5) General Counsel reviewed proposed rules of Texas Medical Board prior to stakeholder meetings. Division staff coordinated with the Texas Medical Board regarding the prosecution of pill mill cases.
- (6) General Counsel attended monthly meetings of the Statewide Information Privacy Advisory Council.
- (7) General Counsel and Division staff engaged with DEA, DPS, the Texas Medical Board and other law enforcement and prosecutorial agencies regarding enforcement of laws against pill mills in the Houston area.
- (8) General Counsel assisted TSHP with pharmacy practice issues.
- (9) General Counsel reviewed MOU with DSHS regarding Texas Disaster Volunteer Registry (TDVR), i.e., Emergency System for Advanced Registration of Volunteer Healthcare Professional.
- (10) Division staff assisted state and federal prosecutors, DEA investigators, and Board staff in other jurisdictions with questions and requests as needed throughout the fiscal year.

### D. Technical Assistance to the Legislature

General Counsel and/or Division staff responded to questions from and attended meetings with Legislators/legislative staff and Governor's staff regarding pharmacy and/or agency issues.

### E. Technical Assistance to the Press and the Public

- (1) Division staff answered numerous telephone calls from pharmacist and pharmacy technician applicants and licensees/registrants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.
- (2) Division staff answered questions from licensees, attorneys, and other members of the public regarding legal issues, including:
  - (a) licensing eligibility and requirements;

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- (b) effect of convictions and deferred adjudications and/or probation for various crimes on registration and licensure;
  - (c) applicability of pharmacy laws and rules; and
  - (d) schedules for resolution of pending cases.
- (3) Division staff participated in UT Law School Government Interest Table Talk presentation.
  - (4) General Counsel and Division staff, along with the Director of Professional Services, developed and produced a training video on requirements for a pharmacist in charge and on changing a licensee's address.
  - (5) Division staff participated in meetings of the State Agency Council.
  - (6) General Counsel consulted with pharmacy business entities regarding legalities of implementing proposed business models.

**9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

General Counsel and Division staff participated in the HPC Legal Committee, which includes attorneys from other agencies, to discuss problems identified with the State Office of Administrative Hearings regarding the handling of legal cases for HPC agencies. The committee submitted an extensive petition for rulemaking to SOAH, which was denied. However, attorneys from HPC agencies met with SOAH representatives to discuss issues arising from SOAH hearings.

**10. To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

In FY2013, Division staff attended general staff meetings and in-house training sessions. In addition, Division attorneys attended required continuing legal education, and Division staff attended various programs, seminars, and events.

**11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2013.**

**Status: ACCOMPLISHED**

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**Comment:** This objective was accomplished through the following activities:

- A. Division staff was evaluated on an annual basis, as required by agency policy.
- B. General Counsel conducted team meetings approximately once a month with Division staff. Legal Assistants met with the Legal Program Specialist on a bimonthly basis.
- C. Division staff conducted the hiring process to fill four attorney positions and a legal assistant position during FY2013.
- D. Division staff interviewed for and had an extended intern in the Fall of 2012 and two legal interns during the Summer of 2013 to provide assistance with the preparation of legal cases.
- E. General Counsel and/or Division staff prepared and conducted orientations of all new TSBP employees and interns during FY2013 regarding the Legal Division, the disciplinary process, ethics, and Public Information and Open Meetings Acts.

**12. To destroy records in accordance with the agency's record retention plan throughout FY2013; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2013.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished as follows:

A. Records Management

During FY2013, Division staff destroyed records, in accordance with the TSBP record retention schedule, including general correspondence. Division staff also prepared and indexed material for electronic storage. In addition, Division staff revised the shared directory structure for improved use by the Legal Division to simplify access to files.

B. Policies and Procedures

- (1) Division staff updated and maintained Disciplinary Notebooks containing all Board Orders and Agreed Board Orders.
- (2) Division staff updated notebook of samples of preliminary notice letters for pharmacist and pharmacy disciplinary actions and forms for various pharmacy technician and technician trainee PNLs and ABOs.
- (3) Division staff drafted and/or updated written policies and procedures for handling of cases to provide reference and training material for the Division positions.

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13. **To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2013.**

**Status:** ACCOMPLISHED

**Comment:** This objective was accomplished as follows:

- A. Division staff continues the process of posting the scanned version of prior actions on the agency's website. The ongoing process includes scanning and archiving prior disciplinary actions in PDF files on shared drive, which has also assisted Board staff by allowing for easy access to the prior orders.
- B. Division staff continues to work on improving the presentation of proposed disciplinary actions to the Board at Board meetings through the use of a detailed summary of those actions entered by the Executive Director and those to be entered by the Board on the electronic notebooks.
- C. Division staff worked to improve the use of a secure mechanism for Board member access to confidential information regarding informal conferences and Board meeting presentation material (i.e., proposed disciplinary orders) prior the date of the meeting.
- D. General Counsel served as co-chair on the agency's Wellness Committee, and coordinated the Maintain No Gain and assisted with the implementation of other programs throughout the year, including the implementation of a Farm-to-Work program to provide access to fresh produce to employees. In addition, General Counsel conducted agency survey regarding utilization of the program. Agency staff responded positively to the survey, and the results were used in the development of new programs.
- E. Division staff developed Calendar of Events for FY2013 for informal conferences and reserved conference rooms accordingly.
- F. General Counsel reviewed expenditures of seizure money for compliance with laws and policies.
- G. Division staff updated automatically generated letterhead which resulted in significantly reduced printing costs.
- H. Division staff continued to participate in implementation of the new licensing and disciplinary database system.
- I. General Counsel developed new format for investigative reports used by agency investigators to address issues with confidentiality and release of documents during discovery process.

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- J. General Counsel and Division staff developed procedures for analysis and presentation of pill mill cases to pharmacist experts for expert opinions on whether to proceed with disciplinary action. General Counsel also developed an updated checklist for use by the investigators in collecting evidence for these types of cases.
- K. Division staff developed a new procedure for drafting Agreed Board Orders using a menu of paragraphs, which has resulted in considerable time savings by the Legal Assistants and more accuracy in the process.
- L. Division staff implemented a new procedure to continue the effort to maintain a paperless environment for documents in Legal Division, which includes scanning of all documents involved in a SOAH cases. Both documents filed with SOAH by Division staff or by the Respondent and those received from SOAH are maintained in an on-line folder immediately accessible to all staff.
- M. Division staff developed procedure to email a courtesy copy of Preliminary Notice Letters to representatives of chain pharmacies rather than mailing the copies, which has resulted in significant savings of manpower and resources.
- N. Texas Pharmacy Act  
  
General Counsel submitted numerous changes to the Pharmacy Act for approval by the TSBP regarding disciplinary and legal proceedings for the legislative session.
- O. Board Rules
  - (1) General Counsel drafted rule changes to disciplinary guidelines and disciplinary sanctions for all licensees, and reviewed and recommended modifications for rules changes presented to the Board.
  - (2) General Counsel and Division staff reviewed rule changes throughout the fiscal year.

**14. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2012 *Annual Report* to be presented to the Board by its May 2013 Board meeting.**

**Status:** ACCOMPLISHED

**Comment:** The Division's first draft of the FY2012 *Annual Report* was submitted to the Executive Director by the due date. The final draft of the report was submitted to the Board at the August 2013 Board meeting.